



***ROANOKE CITY COUNCIL
REGULAR SESSION***

***DECEMBER 15, 2003
2:00 P.M.***

CITY COUNCIL CHAMBER

AGENDA

1. Call to Order--Roll Call.

The Invocation will be delivered by Elder Sylvan A. Moyer, Pastor, Unlimited Power Apostolic Church.

The Pledge of Allegiance to the Flag of the United States of America will be led by Mayor Ralph K. Smith.

Welcome. Mayor Smith.

NOTICE:

Meetings of Roanoke City Council are televised live on RVTV Channel 3. Today's meeting will be replayed on Channel 3 on Thursday, December 18, 2003, at 7:00 p.m., and Saturday, December 20, 2003, at 4:00 p.m. Council meetings are now being offered with closed captioning for the hearing impaired.

ANNOUNCEMENTS:

THE PUBLIC IS ADVISED THAT MEMBERS OF COUNCIL RECEIVE THE CITY COUNCIL AGENDA AND RELATED COMMUNICATIONS, REPORTS, ORDINANCES AND RESOLUTIONS, ETC., ON THE THURSDAY PRIOR TO THE COUNCIL MEETING TO PROVIDE SUFFICIENT TIME FOR REVIEW OF INFORMATION. CITIZENS WHO ARE INTERESTED IN OBTAINING A COPY OF ANY ITEM LISTED ON THE AGENDA MAY CONTACT THE CITY CLERK'S OFFICE, ROOM 456, NOEL C. TAYLOR MUNICIPAL BUILDING, 215 CHURCH AVENUE, S. W., OR CALL 853-2541.

THE CITY CLERK'S OFFICE PROVIDES THE MAJORITY OF THE CITY COUNCIL AGENDA ON THE INTERNET FOR VIEWING AND RESEARCH PURPOSES. TO ACCESS AGENDA MATERIAL, GO TO THE CITY'S HOMEPAGE AT WWW.ROANOKEGOV.COM, CLICK ON THE ROANOKE CITY COUNCIL ICON, CLICK ON MEETINGS AND AGENDAS, AND DOWNLOAD THE ADOBE ACROBAT SOFTWARE TO ACCESS THE AGENDA.

ALL PERSONS WISHING TO ADDRESS COUNCIL ARE REQUESTED TO REGISTER WITH THE STAFF ASSISTANT WHO IS LOCATED AT THE ENTRANCE TO THE COUNCIL CHAMBER. ON THE SAME AGENDA ITEM, ONE TO FOUR SPEAKERS WILL BE ALLOTTED FIVE MINUTES EACH, HOWEVER, IF THERE ARE MORE THAN FOUR SPEAKERS, EACH SPEAKER WILL BE ALLOTTED THREE MINUTES.

ANY PERSON WHO IS INTERESTED IN SERVING ON A CITY COUNCIL APPOINTED AUTHORITY, BOARD, COMMISSION OR COMMITTEE IS REQUESTED TO CONTACT THE CITY CLERK'S OFFICE AT 853-2541, OR ACCESS THE CITY'S HOMEPAGE AT WWW.ROANOKEGOV.COM, TO OBTAIN AN APPLICATION.

2. PRESENTATIONS AND ACKNOWLEDGMENTS:

A Resolution recognizing the service of the Honorable David C. Anderson, City Treasurer.

P 12

A Resolution recognizing the service of the Honorable Arthur B. "Bert" Crush, III, Clerk, Roanoke City Circuit Court.

P 14

3. CONSENT AGENDA

ALL MATTERS LISTED UNDER THE CONSENT AGENDA ARE CONSIDERED TO BE ROUTINE BY THE MEMBERS OF CITY COUNCIL AND WILL BE ENACTED BY ONE MOTION. THERE WILL BE NO SEPARATE DISCUSSION OF THE ITEMS. IF DISCUSSION IS DESIRED, THE ITEM WILL BE REMOVED FROM THE CONSENT AGENDA AND CONSIDERED SEPARATELY.

- C-1 Minutes of the regular meeting of Council held on Monday, November 3, 2003, and recessed until Friday, November 14, 2003.

P 15

RECOMMENDED ACTION: Dispense with the reading of the minutes and approve as recorded.

- C-2 A communication from Mayor Ralph K. Smith requesting that Council convene in a Closed Meeting to discuss vacancies on certain authorities, boards, commissions and committees appointed by Council, pursuant to Section 2.2-3711 (A)(1), Code of Virginia (1950), as amended.

P 43

RECOMMENDED ACTION: Concur in the request.

- C-3 Qualification of the following persons:

Louis O. Brown as a member of the Advisory Board of Human Services, for a term ending November 30, 2007;

Sandra K. Brunk as a member of the Roanoke Arts Commission, for a term ending June 30, 2006;

William M. Hackworth as a member of the Virginia Western Community College Board of Directors, to fill the unexpired term of Michael F. Urbanski, resigned, ending June 30, 2006;

Terri R. Jones as a member of the Roanoke Arts Commission, to fill the unexpired term of Michael Brennan, ending June 30, 2004; and

Philip H. Lemon and Joel W. Richert as members of the Board of Zoning Appeals, for terms ending December 31, 2006.

RECOMMENDED ACTION: Receive and file.

REGULAR AGENDA

4. PUBLIC HEARINGS: NONE.

5. PETITIONS AND COMMUNICATIONS:

- a. A communication from the Honorable George M. McMillan, Sheriff, with regard to establishment of an Inmate Fee Program for fiscal year 2004; and appropriation of funds. (Sponsored by Vice-Mayor C. Nelson Harris and Council Member Alfred T. Dowe, Jr.)

P 44; B/O 50; R 51

- b. Request of The Arts Council of the Blue Ridge to present information on "Downtown -- This is Living", a walking tour of downtown residential spaces. Gregg Lewis, Member, Board of Directors, Spokesperson. (Sponsored by the City Manager)

P 52

- c. Request of Blue Ridge Behavioral Healthcare to present a report with regard to services provided to City residents in fiscal year 2003. Sheri Bernath, Board Member; and S. James Sikkema, Executive Director, Spokespersons. (Sponsored by the City Manager)

P 54

- d. Request of the Roanoke Valley Convention and Visitors Bureau to present the 2003 Annual Report. David L. Kjolhede, Spokesperson. (Sponsored by the City Manager)

P 56

6. REPORTS OF OFFICERS:

- a. CITY MANAGER:

BRIEFINGS: NONE.

ITEMS RECOMMENDED FOR ACTION:

1. Acceptance of disaster assistance funds, in the amount of \$137,005.00, from the Federal Emergency Management Agency and the Virginia Department of Emergency Management.
2. Execution of the Performance Agreement between the City of Roanoke, the Industrial Development Authority, and Boxley Materials Company, in the amount of \$154,000.00, to promote economic development in the City of Roanoke.
3. Amendment to the contract with Lancor Parking, L.L.C., to modify the performance bond requirement for management and operation of certain City-owned and/or controlled parking facilities.
4. Amendment of the City Code to eliminate Enterprise Zone One, effective January 1, 2004; and to extend the filing date for applications for Enterprise Zone Two until December 30, 2015.
5. Donation of a City-owned vehicle to Total Action Against Poverty in Roanoke Valley, Inc., to be used in connection with the TAP Youth Build Program.
6. Transfer and appropriation of funds in connection with proceeds from the sale of 15 acres of land in the Roanoke Centre for Industry and Technology, and the sale of 400 square feet of City-owned property located on Airport Road, N. W., to the Federal Aviation Administration.

P 57;
B/O 59;
R 60

P 61;
O 73

P 75;
O 79

P 81;
O 83

P 86;
R 88

P 89;
B/O 90

7. Transfer of funds in connection with collection system metering and analysis services. P 91;
B/O 93
8. Amendment to the contract with Robinson Pipe Cleaning Company to provide for removal, transportation, and disposal of biosolids from the Water Pollution Control Plant for an additional one year period, retroactive to October 1, 2003 through September 30, 2004. P 94;
O 96;
O 97
9. Amendment of the City Code to provide for a Driving Under the Influence (DUI) Recovery Program; and appropriation of funds. P 98;
B/O 99;
O 100
10. Execution of Change Order No. 3 to the contract with H. & S. Construction Company, in connection with the Mill Mountain Greenway, in the amount of \$102,559.00. P 102;
B/O 104;
O 105
11. Execution of Amendment No. 1 to the Roanoke Valley Regional Cable Television Committee Agreement with the City of Roanoke, County of Roanoke and the Town of Vinton, to reflect references to the recently adopted Cable Television Franchise Ordinances and Cable Television Franchise Agreements, effective October 31, 2003. P 106;
O 115

b. DIRECTOR OF FINANCE:

1. A report with regard to the audited Capital Maintenance and Equipment Replacement Program (CMERP) for fiscal year 2003. P 117

7. REPORTS OF COMMITTEES: NONE.

8. UNFINISHED BUSINESS: NONE.

9. INTRODUCTION AND CONSIDERATION OF ORDINANCES AND RESOLUTIONS: NONE.

10. MOTIONS AND MISCELLANEOUS BUSINESS:

- a. Inquiries and/or comments by the Mayor, Vice-Mayor and Members of City Council.
- b. Vacancies on certain authorities, boards, commissions and committees appointed by Council.

11. HEARING OF CITIZENS UPON PUBLIC MATTERS:

CITY COUNCIL SETS THIS TIME AS A PRIORITY FOR CITIZENS TO BE HEARD. MATTERS REQUIRING REFERRAL TO THE CITY MANAGER WILL BE REFERRED IMMEDIATELY FOR RESPONSE, RECOMMENDATION OR REPORT TO COUNCIL.

12. CITY MANAGER COMMENTS:

CERTIFICATION OF CLOSED SESSION.

THE COUNCIL MEETING WILL STAND IN RECESS UNTIL 7:00 P.M., IN THE CITY COUNCIL CHAMBER.



***ROANOKE CITY COUNCIL
REGULAR SESSION***

***DECEMBER 15, 2003
7:00 P.M.***

CITY COUNCIL CHAMBER

AGENDA

Call to Order -- Roll Call.

The Invocation will be delivered by Mayor Ralph K. Smith.

The Pledge of Allegiance to the Flag of the United States of America will be led by Mayor Smith.

Welcome. Mayor Smith.

NOTICE:

The Council meeting will be televised live by RVTN Channel 3 to be replayed on Thursday, December 18, 2003, at 7:00 p.m., and Saturday, December 20, 2003, at 4:00 p.m. Council meetings are now being offered with closed captioning for the hearing impaired.

A. PUBLIC HEARINGS:

1. Joint public hearing by Council and the City Planning Commission on amendments to the City Code to permit the establishment of outpatient mental health and substance abuse clinics as a special exception use in only the C-2, General Commercial District, of the City of Roanoke. R. Brian Townsend, Agent, City Planning Commission. P 119;
O 122
2. Views of citizens regarding appointment of a School Trustee to fill the unexpired term of Melinda J. Payne, resigned, ending June 30, 2004.
3. Request of Farren and Lynette Webb that a parcel of land located at the corner of Yellow Mountain Road and Melcher Street, S. E., identified as Official Tax No. 4300722, be rezoned from CN, Neighborhood Commercial District, to RM-1, Residential Multi-family, Low Density District, subject to certain conditions proffered by the petitioners. Edward A. Natt, Attorney. P 124;
O 136
4. Request of Super D Holdings, L.L.C., that property located at 414, 416, 418 and 420 Ninth Street, S. E., identified as Official Tax Nos. 4112708 - 4112711, inclusive, be rezoned from C-2, General Commercial District, to CN, Neighborhood Commercial District, subject to certain conditions proffered by the petitioner. Edward A. Natt, Attorney. P 138;
O 155
5. Request of Norman R. and Marie A. Pratt that certain parcels of land located at the intersection of Stewart Avenue and 9th Street, S. E., identified as Official Tax Nos. 4112016 - 4112018, inclusive, be rezoned from RM-2, Residential Multi-family, Medium Density District, to C-2, General Commercial District, subject to certain conditions proffered by the petitioners. Maryellen F. Goodlatte, Attorney. P 157;
O 191
6. Proposed lease of City-owned property located in the 400 and 500 blocks of Church Avenue, S. W., when such property is acquired by the City, pursuant to an Agreement dated December 24, 2002, between the City and the YMCA of Roanoke Valley, Inc., to the YMCA of Roanoke Valley, Inc., for a term commencing August 1, 2004, and ending December 1, 2005, subject to automatic renewal on a month to month basis. Darlene L. Burcham, City Manager. P 193;
O 203

7. Extension of a lease agreement with The Hertz Corporation for an 87,120 square foot parcel of land located at 1302 Municipal Road, N. W., for a period of five years. Darlene L. Burcham, City Manager.

P 204;
O 209

8. Vacation of portions of sanitary sewer and drainage easements, in connection with development of a parcel of privately owned land located on Wildwood Road, S. W., Official Tax No. 1070605. Darlene L. Burcham, City Manager.

P 210;
O 213

B. OTHER BUSINESS:

- 1.(a) Petition for appeal of a decision of the Architectural Review Board in connection with denial of a Certificate of Appropriateness, filed by Lewis R. Burger, Owner, Burger & Son, Inc., with regard to property located at 802 Marshall Avenue, S. W. Lewis R. Burger, Spokesperson.

P 215

- (b) Recommendation of the Architectural Review Board that Council affirm the decision of the Board to deny issuance of a Certificate of Appropriateness, in connection with the above referenced property. Robert N. Richert, Chair, Architectural Review Board.

P 218

C. HEARING OF CITIZENS UPON PUBLIC MATTERS:

CITY COUNCIL SETS THIS TIME AS A PRIORITY FOR CITIZENS TO BE HEARD. MATTERS REQUIRING REFERRAL TO THE CITY MANAGER WILL BE REFERRED IMMEDIATELY FOR RESPONSE, RECOMMENDATION OR REPORT TO COUNCIL.

THE COUNCIL MEETING WILL STAND IN RECESS UNTIL TUESDAY, DECEMBER 30, 2003, AT 9:30 A.M., AT THE ROANOKE COUNTY ADMINISTRATION CENTER, FOURTH FLOOR TRAINING ROOM, 5204 BERNARD DRIVE, S. W., FOR A JOINT MEETING OF ROANOKE CITY COUNCIL AND THE ROANOKE COUNTY BOARD OF SUPERVISORS, TO CONTINUE DISCUSSIONS REGARDING THE WESTERN VIRGINIA WATER AUTHORITY.

**MOTION AND CERTIFICATION
WITH RESPECT TO
CLOSED MEETING**

FORM OF MOTION:

I move, with respect to any Closed Meeting just concluded, that each member of City Council in attendance certify to the best of his or her knowledge that (1) only public business matters lawfully exempted from open meeting requirements under the Virginia Freedom of Information Act and (2) only such public business matters as were identified in any motion by which any Closed Meeting was convened were heard, discussed or considered by the members of Council in attendance.

PLEASE NOTE:

1. The forgoing motion shall be made in open session at the conclusion of each Closed Meeting.
2. Roll call vote included in Council's minutes is required.
3. Any member who believes there was a departure from the requirements of subdivisions (1) and (2) of the motion shall state prior to the vote the substance of the departure that, in his or her judgement, has taken place. The statement shall be recorded in the minutes of City Council.

WWT

IN THE COUNCIL OF THE CITY OF ROANOKE, VIRGINIA,

A RESOLUTION paying tribute to The Honorable David C. Anderson, City Treasurer, and expressing to him the appreciation of this City and its people for his exemplary public service.

WHEREAS, David C. Anderson, has announced his retirement as City Treasurer effective December 31, 2003;

WHEREAS, Mr. Anderson graduated from R.B. Worthy High School in Saltville, Virginia, and attended Emory and Henry College in Emory, Virginia, and Mr. Anderson moved to Roanoke in 1964 to attend National Business College, and upon graduation from National Business College in 1967, Mr. Anderson went to work for Appalachian Power Company;

WHEREAS, Mr. Anderson began his career with the City of Roanoke in 1969, working in the Auditor's Office and in the Department of Finance;

WHEREAS, Mr. Anderson was appointed as Chief Deputy Treasurer for the City in 1978, and served in that position until he was appointed City Treasurer by City Council in June, 1996, to fill the unexpired term created by the resignation of the then City Treasurer, Gordon E. Peters;

WHEREAS, Mr. Anderson was elected to the office of City Treasurer in 1997, and again in 2001, and has faithfully served Roanoke and its citizens in that capacity since his appointment and election, and including his earlier service as Auditor and Accountant, has a total of 34 years of service with the City of Roanoke; and

WHEREAS, Mr. Anderson is a member of the Treasurer's Association of Virginia and has been active in the community through organizations including Huntington Court United Methodist Church; Williamson Road Life Saving Crew; Roanoke Emergency Medical Services;

Council of Community Services; Roanoke Kiwanis Club; Williamson Road Action Forum; Williamson Road Masonic Lodge #163 A.F. & A.M.; Kazim Shriners; Scottish Rite of Freemasonry; and the City of Roanoke Democratic Committee.

THEREFORE, BE IT RESOLVED by the Council of the City of Roanoke as follows:

1. City Council adopts this means of recognizing and commending the many years of service rendered to the City of Roanoke and its people by The Honorable David C. Anderson.
2. The City Clerk is directed to transmit an attested copy of this resolution to Mr. Anderson.

ATTEST:

City Clerk.

UN 11/18

IN THE COUNCIL OF THE CITY OF ROANOKE, VIRGINIA,

A RESOLUTION paying tribute to The Honorable Arthur B. "Bert" Crush III, Clerk of Circuit Court for the City of Roanoke, and expressing to him the appreciation of this City and its people for his exemplary public service.

WHEREAS, Arthur B. "Bert" Crush, III, has announced his retirement as Clerk of the Circuit Court effective December 31, 2003;

WHEREAS, Mr. Crush, a native of Roanoke, graduated from Hargrave Military Academy in Chatham, Virginia, and earned a B.A. from Methodist College in Fayetteville, North Carolina, and a J.D. from Hamlin University in St. Paul, Minnesota;

WHEREAS, after graduation from law school, Mr. Crush practiced law in private firms in the Roanoke area;

WHEREAS, Mr. Crush was elected to the office of Clerk of Circuit Court in 1991;

WHEREAS, Mr. Crush is the devoted father of two sons and has been involved in the community through their activities;

WHEREAS, Mr. Crush faithfully served Roanoke and its citizens for 12 years.

THEREFORE, BE IT RESOLVED by the Council of the City of Roanoke as follows:

1. City Council adopts this means of recognizing and commending the many years of service rendered to the City of Roanoke and its people by The Honorable Arthur B. "Bert" Crush III.
2. The City Clerk is directed to transmit an attested copy of this resolution to Mr. Crush.

ATTEST:

City Clerk.

REGULAR WEEKLY SESSION---ROANOKE CITY COUNCIL

November 3, 2003

9:00 a.m.

The Council of the City of Roanoke met in regular session on Monday, November 3, 2003, at 9:00 a.m., the regular meeting hour, in the Emergency Operations Center Conference Room, Room 159, Noel C. Taylor Municipal Building, 215 Church Avenue, S. W., City of Roanoke, Virginia, with Mayor Ralph K. Smith presiding, pursuant to Chapter 2, Administration, Article II, City Council, Section 2-15, Rules of Procedure, Rule 1, Regular Meetings, Code of the City of Roanoke (1979), as amended; and pursuant to Resolution No. 36193-010603 adopted on January 6, 2003, which changed the time of commencement of the regular meeting of Council to be held on the first Monday in each month from 12:15 p.m. to 9:00 a.m.

PRESENT: Council Members William D. Bestpitch, M. Rupert Cutler, Alfred T. Dowe, Jr., Beverly T. Fitzpatrick, Jr., Linda F. Wyatt, and Mayor Ralph K. Smith-----6.

ABSENT: Vice-Mayor C. Nelson Harris-----1.

OFFICERS PRESENT: Darlene L. Burcham, City Manager; William M. Hackworth, City Attorney; Jesse A. Hall, Director of Finance; and Mary F. Parker, City Clerk.

COMMITTEES-CITY COUNCIL: A communication from Mayor Ralph K. Smith requesting that Council convene in a Closed Meeting to discuss vacancies on certain authorities, boards, commissions and committees appointed by Council, pursuant to Section 2.2-3711 (A)(1), Code of Virginia (1950), as amended, was before the body.

Mr. Bestpitch moved that Council concur in the request of the Mayor to convene in a Closed Meeting as above described. The motion was seconded by Mr. Cutler and adopted by the following vote:

AYES: Council Members Bestpitch, Cutler, Dowe, Fitzpatrick, Wyatt, and Mayor Smith-----6.

NAYS: NONE-----0.

(Vice-Mayor Harris was absent.)

COUNCIL: ITEMS LISTED ON THE 2:00 P.M. COUNCIL DOCKET REQUIRING DISCUSSION/CLARIFICATION; AND ADDITIONS/DELETIONS TO THE 2:00 P.M. DOCKET.

The City Manager recommended that December 26, 2003 and January 2, 2004, be observed as official holidays for City employees, inasmuch as both holidays fall on a Thursday.

TOPICS FOR DISCUSSION BY THE MAYOR AND MEMBERS OF COUNCIL: NONE.

REPORTS OF COUNCIL MEMBERS IN THEIR LIAISON COMMITTEE ASSIGNMENTS:

Council Member Cutler presented a summary of his Council liaison committee assignments:

Roanoke Arts Commission:

- The Commission has met at various venues to which it provides grants, such as the Virginia Museum of Transportation, Explore Park, Downtown Music Lab, Center in the Square, Mill Mountain Zoo, etc.
- The Commission is currently working on a Public Art Plan.

Mill Mountain Advisory Committee:

- The Committee is working with the City's Department of Parks and Recreation on a Master Plan for the entire Park, including the additional 55 acres of the land that Council recently authorized for acquisition.

Mill Mountain Zoo Board of Directors:

- The Board of Directors is concerned about water pressure and water supply for the Zoo which is under consideration in the context of its budget.

Virginia Municipal League - Environmental Quality Committee:

- Meetings were held on January 23, 2003, in Richmond, and on October 20-21, 2003, in Roanoke
- Served on the Environmental Quality Committee

Urban Forestry Task Force:

- Task Force met on January 15, 2003
- The Urban Forestry Plan was completed and adopted by Council

Soil and Water Conservation District Board of Directors:

At a recent meeting, the City of Roanoke's petition to join the Blue Ridge Soil and Water Conservation District was accepted.

Dr. Cutler was requested to provide a summary of the meeting with representatives of the Corps of Engineers and the Fish and Wildlife Service; whereupon, he advised that approximately 40 persons were in attendance, including several representatives of the Wilmington District of the Corps of Engineers, biology staff from the U. S. Fish and Wildlife Service, a majority of the City's Flood Plain Committee, Chairman of the Fish and Wildlife Department at Virginia Tech, a fish biologist from the Department of Game and Inland Fisheries, and others. He stated that the focus of the meeting related to concerns of the Fish and Wildlife Service on the latest generation of the bench cut plan that the Corps of Engineers has produced; and a concern that if the plan proceeds as the Corps of Engineers propose, removal of banks along certain sections of the river in order to increase river capacity in high water stages would be too low, and, all too frequently, water could rise above those levels, wash the soil off benches into the river channel, silt up the channel and require dredging of the river, which would not only reduce the capacity of the river to handle floods but harm fish and wildlife habitat, particularly the habitat of endangered Roanoke log perch. He stated that the Fish and Wildlife Service proposed that the benches be at a higher level so as to be out of the current of the river, except in serious flooding conditions, at which time they would serve their intended purpose. He noted that representatives of the City's Flood Plain Committee expressed frustration that the process has gone on for a number of years without any signs of construction in the river, and they were anxious for the program to move forward; the biologist from Virginia Tech and the representative of the Department of Game and Inland Fisheries were concerned, as was the Fish and Wildlife Service, over moving ahead with a plan that would be counter productive in the long term, that would appear to provide some flood relief with bench cuts but would result in more siltation, reduced capacity of water in the river, and worsening of the flooding problems, rather than alleviating problems and harming the fishery.

At the conclusion of the meeting, he stated that the Corps of Engineers, the Fish and Wildlife Service, and the City's Engineering Department agreed to meet and come to a better understanding of each other's positions.

Dr. Cutler advised that other obvious conclusions are that much of the flood waters and siltation come from locations other than the City of Roanoke and Roanoke County, thus, there is a need to look short term at tributaries and storm water management within the City; and another issue pertains to the role of the interceptor sewer lines that form dams across the river at low water bridges, and the filling in around the piers of highway bridges that slow down the river, cause silt to drop out of the river and help to fill the river. He added that it is important for the City to develop a parallel action plan move and lower sewer crossings, to change low water bridges, to take out the fill around bridge supports in order to remove

obstruction, because the only way to keep the river clear is to keep up the velocity and keep silt in the water moving, which is another issue that the City's Engineering staff must address and must be budgeted for over a period of time since it will be costly, but is important if the City is to complement the work of the Corps of Engineers by removing obstructions that have been placed in the river, sewer crossings, low water bridges and any other actions that can be taken to cause the water to flow more easily under highway bridges.

Discussion:

- If the plan is satisfactorily revised, there will be minimum siltation and sedimentation.
- Concern was expressed that a large number of established trees will be lost along the river bank containing root systems that are holding the river banks in place. New trees can be planted, but it will take a long time for the trees to become established and to develop the same holding power over the rocks.
- Part of the recommendation of the Fish and Wildlife Service is to minimize tree cutting and vegetative removal, because vegetative cover on the river banks will help to stabilize soil and minimize erosion and siltation.
- The potential for taking out the Niagra Dam near the Blue Ridge Parkway should be explored inasmuch as the dam does not provide a large amount of energy for American Electric Power, the reservoir is full of silt and a problem will exist if the silt is toxic.

Council Member Bestpitch reported on the following liaison committee assignments:

Roanoke Valley-Allegheny Regional Commission:

- The Long Range Water Supply Study has been completed, with a goal of looking at how to accommodate water supply needs over the next 50 years; and policy and technical committees will meet later this month to discuss ways to begin implementation of some of the elements of the study.
- The Regional Commission has initiated a regional citizens planning academy which is a four session training program that covers a variety of planning-related topics and is open to any person who is interested in learning more about regional and community planning.
- The Regional Commission issued a regional report card this year which cites approximately 98 different and multi-jurisdictional cooperative programs and projects.

Metropolitan Planning Organization (MPO):

The staff of the Regional Commission is working with the MPO on the Roanoke Valley Long Range Transportation Plan; and it is anticipated that the MPO will approve the long range plan in January 2004, following a public comment period and a public hearing.

Roanoke Neighborhood Advocates (RNA):

The RNA is a new organization that will provide advice on neighborhood issues, as well as education for neighborhood groups; a seven member committee was appointed by Council and the Committee will identify the remaining six members; an initial draft of the by-laws was completed and the committee is working on its strategic business plan; each of the seven members was assigned to a number of neighborhood organizations in a type of liaison role, and representatives have attended their respective neighborhood organization meetings to introduce themselves and to conduct a level of needs assessment within each organization.

Explore Park:

- The Brugh Tavern no longer operates as a restaurant, but will provide lunch on weekends when Explore Park is open for business, however, Brugh Tavern can be reserved for a private function; Explore Park appears to be moving away from the historical interpretive function that the Park has provided in the past to more recreational-type opportunities, such as fishing, canoeing, kayaking, birding, hiking, mountain biking trails, plans to create a playground and children's historic playhouse area, picnic shelters; staff has been reduced and much of the operation appears to have been taken over by Roanoke County; and without an interpretive staff and the same attention to historic structures, there is some question as to the kinds of attractions that will be available at Explore Park that will attract people from other areas.
- Explore Park plans to construct a replica of an 18th century fort which will open on July 3, 2004, and will be part of its tenth birthday celebration.

Virginia First Cities Coalition:

- The Coalition met in May and October and conducted a strategic planning session that was also attended by the City Manager in Charlottesville, Virginia; a 2004 Legislative Agenda has been drafted containing three overarching policies: to increase financial support to First Cities, to enhance redevelopment opportunities in First Cities through adoption of an urban policy and smart growth strategies, and to hold older core cities harmless from any budget balancing actions. Specific legislative recommendations are to oppose any loss in State aid or in local authority, to increase funding for education, which is the most important issue for member localities participating in the Coalition, and to support tax restructuring in a way that generates new revenues and increases State revenues to a certain degree.

- At a meeting prior to the beginning of the Virginia Municipal League Annual Conference in October, the First Cities Coalition endorsed maintaining the Council - Manager form of government in Virginia localities.
- The City Manager advised that the top priority is increased funding for special education in Virginia; whereupon, she stated that VACO and the First Cities Coalition agreed to provide Public Service Announcements that seek to mobilize the interest of citizens around the issue of education; there are certain groups that would see the issue differently in terms of whether or not there should be an adjustment to the formula that would give more weight to some of the disadvantaged issues that are experienced by the older urban cities, but education has clearly fallen behind in terms of the level of funding that has been provided by the State.
- Many localities have argued that if there were full funding of the mandates, real estate taxes could be reduced, or other budget adjustments could be made; and, it is because of that gap that localities have experienced problems and individual localities have sought to fill the gap through imposing various fees and other tax changes.

Fair Housing Board:

- No City Council liaison has been assigned to the Fair Housing Board, however, Mr. Bestpitch stated that he met with the Board regarding to certain issues. A process began some time ago to update the City's Fair Housing Ordinance and a draft was prepared for review by Council; during the last session of the Virginia General Assembly, the State created the Virginia Fair Housing Office, effective July 1, 2003, which assumed the responsibility of addressing fair housing issues in a different way; localities that have not appointed Fair Housing Boards in the past will not be permitted to create a Fair Housing Board in the future; and since the City of Roanoke previously appointed a Fair Housing Board, the Board may continue to function. City staff, in consultation with the City Attorney's Office, made further revisions to the ordinance, i.e.: to make the protective class classifications in the City's ordinance consistent with Federal and State law which has changed over the years, in order to delete the adjudicatory powers of the Fair Housing Board since it was believed to be a duplication of the responsibility of the new State Office and because in approximately 20 years of the Fair Housing Board's existence in the City of Roanoke, those powers have been exercised on only one occasion, which will allow for further emphasis on the educational component of the City's Fair Housing Board. The role of the Fair Housing Board would be to ensure that citizens understand their rights in regard to fair housing, as well as to advise Council on any fair housing issues of interest to the City. The Fair Housing Board objected to deletion of its adjudicatory powers; he, along with Council Member Cutler, attended a meeting of the Fair Housing Board on October 7, to hear the Board's

concerns; and as a result of the meeting, Mr. Bestpitch recommended that Council approve the proposed revisions to the Fair Housing Ordinance, with one exception; i.e.: to leave adjudicatory powers in place, inasmuch as the City should be very careful about giving up a power that it may not ever be able to regain in the future due to a new State statute.

- Without objection by Council, Mr. Bestpitch recommended that City staff be instructed to draft the Fair Housing Ordinance including the proposed changes, with the exception of the adjudicatory powers to be exercised by the Fair Housing Board.
- When revising the ordinance, it should be stated that the Fair Housing Board will have an advisory role with the Council, and if fair housing issues arise that the Council should be aware of, the Board will be charged with the responsibility of bringing those issues to the Council's attention.

Board of Directors-Total Action Against Poverty in Roanoke Valley, Inc.:

- Council has committed to supporting additional renovation of the Dumas Hotel for certain expanded purposes; representatives of the Harrison Museum for African-American Culture was contacted with regard to occupying gallery space on the first floor of the existing building; as discussions developed, TAP decided to attempt to add a wing to the building and to completely relocate the Harrison Museum from its current location to the Dumas Hotel building, to enable the facility to become a part of the Henry Street redevelopment initiative.
- There are certain advantages to the City in having the Harrison Museum more closely connected with other arts and cultural amenities in the downtown area; there are good reasons to save the old Harrison School and for the Harrison Museum to be part of the project, but experience would suggest that the Harrison Museum is too far out of the loop when taking into consideration the passenger station renovation, the O. Winston Link exhibit, renovation of the First Street Bridge, the Virginia Museum of Transportation, the new Arts Museum and Center in the Square. If the Harrison Museum were to relocate and construct a separate building, the cost of doing so would be significantly greater than the cost of adding a wing to the Dumas Hotel; and it would be a reasonable expectation for the City to participate in construction of such a project, similar to that which was done for the Grandin Theater and the Arts Museum, therefore, a case can be made for reevaluating the City's level of participation in the overall project, and the possibility of an additional funding commitment to the Dumas project for that purpose.
- The Mayor advised that the Harrison Museum is not easily accessible by visitors to the City of Roanoke; Center in the Square has made efforts to embrace the Harrison Museum as a part of the Center Museum and cultural hub; the chance of success for the Harrison Museum will be greater if and

when it becomes a part of Center in the Square, or in the middle of the City Market area; and there are persons who stand ready to invest private dollars in the effort, should the Harrison Museum choose to relocate.

- Dr. Cutler agreed that the Harrison Museum is difficult to locate by persons not familiar with the City of Roanoke, but the Harrison Museum, the Dumas Drama Guild and the Downtown Music Lab all fit together in an expanded Dumas Hotel, and could become a part of the reason for persons to visit that section of the City, in addition to the Higher Education Center and Eight Jefferson Place, and the Ebony Club, etc. He added that the Harrison Museum is part of the African-American community and offers a unique concentration of features; as a member of the Harrison Board, he stated that there are two constant themes; i.e.: the need to protect the old Harrison School as an architectural landmark and a continuing sense of concern that the Harrison Museum, as a unique entity, might get lost in the shuffle in the larger complex of Center in the Square activities. He stated that the Harrison Museum would be better suited in the Dumas Hotel rather than Center in the Square. Mr. Fitzpatrick expressed concern in regard to allocation of Community Development Block Grant funds; separately, for Dumas Hotel improvements when Council has set a policy to move forward in a different direction; and there should be a concentrated effort to keep these kinds of activities together so that they coordinate.
- Council Member Dowe advised that the sustainability of the Harrison Museum is far greater and far more important than many persons realize as an education synergy is created because Roanoke has the advantage of an African-American Museum which is a unique venue throughout the Commonwealth of Virginia; there will be funding challenges in regard to the Dumas/Harrison project because there are few of minority professionals in the Roanoke Valley that could be tapped as potential funding sources; the City's financial-support may not be consistent with Community Development Block Grant funding policy established by Council, but it is important for the City to identify a way to help the Harrison Museum for the greater good of the City of Roanoke.
- Council Member Wyatt advised that the Dumas Hotel is not the only TAP project and if funding exceptions are made for TAP, requests of other organizations should be honored as well.
- Council Member Bestpitch advised that Council should continue to abide by its established policy in regard to dispensing Community Development Block Grant funds; it is unclear as to the reasoning by TAP for identifying a funding source; there will be benefits to the downtown area and to the Henry Street area if the Harrison Museum is relocated from Harrison Avenue to the Dumas Hotel building, and any investment in downtown Roanoke will benefit other downtown projects. He stated that he would take the remarks of Council back to TAP, and advised that TAP has a history of starting projects and then spinning them off, such as the Southwest Virginia Food Bank, the water

project, CHIP, Project Discovery, all of which are currently independent from TAP. He mentioned the possibility of the eventual goal of turning the property over to a Foundation, the long term goal of which would be to maintain the real estate for those institutions housed in the facility.

- Council Member Wyatt advised that TAP has a history of requesting funds and not meeting its obligations to the City, which is of concern to her as one Member of Council. She referred to a previous funding request of TAP that the City was later requested to forgive; TAP later requested \$500,000.00 over a five year period in \$100,000.00 increments per year, with the understanding that it would meet its financial obligations, however, a full year has not passed in that process and TAP is again requesting additional funds. She stated that even through the Dumas Hotel is a worthy project, there are other worthy projects in the City to be considered, and Council has a responsibility to look at both sides of the issue since taxpayers' dollars are involved, and because the City has been requested to spend \$900,000.00 over the course of less than two years to fund one project.

Higher Education Center:

- Mr. Bestpitch referred to a communication from Dr. Thomas McKeon, President, Roanoke Higher Education Center, in regard to funding for a capital project. He advised that the Higher Education Center is a state institution, governed by a Board of Directors, appointed by the General Assembly, and the City of Roanoke has no input regarding appointments. He stated that he was not aware of any other localities where state institutions of higher education are located that provide local funding for capital projects; however, consideration should be given to the fact that the building is technically owned by a for profit entity which was created for the purpose of taking advantage of certain historic tax credits; and the Higher Education Center is not a for profit entity, therefore, the only way the facility can pay real estate taxes to the City is through operating funds. He explained that the arrangement with the for profit entity was for a five year period which will expire in approximately two years, at which time the property will be deeded over to the State and the City will no longer collect real estate taxes. He questioned whether the City of Roanoke should collect real estate taxes on a state operation; the City cannot technically give the Higher Education Center an exemption from paying real estate taxes, but the City could provide a grant back to the facility for operation of the Center in an equivalent amount to what the Higher Education Center pays in real estate taxes, or approximately \$21,000.00 per year. Additionally, he advised that Dr. McKeon referred to certain remodeling that was done to accommodate the needs of the Blue Ridge Technical Academy to provide additional classroom space, in which he noted that because the Higher Education Center did not have actual funding for the remodeling, rent was collected in advance from the Roanoke City School System in an amount to cover remodeling costs and no rent was charged for a certain period of time until the school system caught up. He

suggested that the Higher Education Center and the City's School System revisit the issue to determine how the Higher Education Center could be reimbursed for the cost of remodeling the space, and the school system could request the City to partner with them on a capital project.

Virginia Municipal League:

- Mr. Bestpitch advised that the Annual Conference of the Virginia Municipal League will be held in Alexandria in 2004, the 100th anniversary of the VML will be held in Richmond in 2005, Virginia Beach in 2006, in James City/County in 2007 to commemorate the 400th anniversary of the founding of Jamestown, and in Norfolk in 2008. He requested that Council support a request for the City of Roanoke to invite the Virginia Municipal League to return to the City of Roanoke in 2009.
- Mr. Bestpitch referred to a communication from R. Michael Amyx, Executive Director, Virginia Municipal League, commending the City of Roanoke on a job well done in connection with VML Host City Night which was held on October 20, 2003, on the Roanoke City Market.

Roanoke Valley Convention and Visitor's Bureau:

- Council Member Fitzpatrick reported on the Roanoke Valley Convention and Visitors Bureau and advised that a ribbon cutting ceremony for the new Visitors Information and Conference Center facility will be held on November 6 at 10:00 a.m., which represents a milestone for the City of Roanoke.

Virginia CARES Board of Directors:

- Council Member Wyatt reported on the Virginia CARES Board of Directors which has experienced a difficult year, funding-wise; and additional funds were approved by the Governor that enabled Virginia CARES to operate for at least another six months.

Roanoke Civic Center Commission:

- Ms. Wyatt called attention to problems associated with ice that does not freeze on the Civic Center Coliseum floor prior to Roanoke Express Hockey games which has become an embarrassment to the City of Roanoke.
- The City Manager advised that she would investigate the matter.

Roanoke Regional Cable Television Committee:

- Council Member Dowe expressed appreciation to Council for adopting the new franchise with Cox Communications Roanoke.

Personnel Committee:

- Council Member Dowe advised that he is the newly appointed Chair of the City Council's Personnel Committee and also serves on the Roanoke Regional Chamber of Commerce.

The Hotel Roanoke Conference Center Commission:

- Mayor Smith advised that revenue from The Hotel Roanoke Conference Center is down when comparing Roanoke to other venues across the state or the country because corporate expenditures have been reduced; room night occupancy rate for Hotel Roanoke is up and profile events such as the VML Conference increased attendance and usage of the facility. He stated that the Blacksburg Conference Center and The Hotel Roanoke Conference Center may be managed by the same management team in the future which will better Roanoke's ties with Virginia Tech.

The City Manager advised that the following items were discussed by the Council at its planning retreat on September 5, 2003; however, Council did not reach a consensus.

- Provide RVTv coverage of informal Council briefings and joint sessions of the Council with certain Council appointed committees
- Brief introduction by the City Manager of items listed under the City Manager's section of the agenda
- Display announcements read by the Mayor at the beginning of the Council meeting on a screen in the Council Chamber
- Televisе a summary of the Council meeting on RVTv Channel 3 immediately following each session
- Electronic voting by the Mayor and Members of Council as a time saving measure
Following discussion, it was the consensus of Council that:
- Work sessions will not be televised. Meetings to be televised with various Council appointed committees will be determined in advance, by the Council, on a case by case basis.
- The agenda item number will be read by the Mayor, and the City Clerk will read the title paragraph of the ordinance or resolution. If the title paragraph of the measure does not provide an adequate explanation of the agenda item, the Mayor will provide additional information.
- At least 15 minutes prior to each Council meeting a summary of the Council agenda will be televised on RVTv Channel 3.

- Following each Council meeting and prior to the rebroadcast of the meeting, a summary of agenda items will be televised by RVT Channel 3.

(There was no discussion regarding the issue of electronic voting by the Council.)

BRIEFINGS:

The City Manager introduced a briefing with regard to traffic calming activities in the Memorial Avenue/Grandin Road area.

Robert K. Bengtson, Director, Public Works, advised that plans for Grandin Road improvements (Memorial Avenue to Westover Avenue) have been fully developed and shared with the Greater Raleigh Court Civic League and the Grandin Village Merchants, and plans were endorsed by other organizations. In his presentation, he reviewed plans from various diagrams including widened sidewalks, curb extensions at corners, new street trees (European Hornbeam and Crepe Myrtles), stamped crosswalks (colored), and on-street parking.

He further advised that plans for the next phase of Memorial Avenue (Cambridge Avenue to Grandin Road) have been developed in concept only and need to be presented to the public; plans were developed to be a continuation of the Grandin Road improvements, rather than matching the recent changes on Memorial Avenue (bridge area); the new Memorial Avenue concept includes widened sidewalks, curb extensions at corners, street trees (Maples), stamped asphalt crosswalks, gateway features, on street parallel parking, reduction in entranceways, and coordination with Virginia Heights Elementary School for site improvements, including retaining wall, fence and school sign; and the new concept does not include bike lanes.

The City Manager advised that City staff is ready to proceed with the design, pursuant to approval by Council and availability of funds.

The City Manager introduced a briefing with regard to the Franklin Road and Elm Avenue interchange.

Mr. Bengtson advised that the Franklin Road and Elm Avenue intersection was originally designed in anticipation that Franklin Road might one day be widened south of Elm Avenue, hence, two through travel lanes were built for southbound traffic approaching the Elm Avenue intersection. He stated that two options were recently developed that would eliminate one of the through lanes at this location; of the two, the preferred option widens the existing median area, thus eliminating the existing left turn lane; the left turn lane can be re-established in one of the through lanes which leaves one of the existing through lanes in place to serve through traffic movement; and the median on the south side of the intersection can likewise be widened and median areas would then be landscaped. He noted that the other option, which was not selected, was to eliminate the right turn lane.

The City Manager advised that with the concurrence of Council, City staff will proceed with the modification.

There being no further business, the Council meeting was declared in recess to be reconvened at 2:00 p.m., in the City Council Chamber.

At 2:00 p.m., on Monday, November 3, 2003, the Council meeting reconvened in the City Council Chamber, fourth floor, Noel C. Taylor Municipal Building, 215 Church Avenue, S. W., City of Roanoke, Virginia, with Mayor Ralph K. Smith presiding.

PRESENT: Council Members William D. Bestpitch, M. Rupert Cutler, Alfred T. Dowe, Jr., Beverly T. Fitzpatrick, Jr., C. Nelson Harris, Linda F. Wyatt, and Mayor Ralph K. Smith-----7.

ABSENT: None-----0.

OFFICERS PRESENT: Darlene L. Burcham, City Manager; William M. Hackworth, City Attorney; Jesse A. Hall, Director of Finance; and Mary F. Parker, City Clerk.

The meeting was opened with prayer by The Reverend E. T. Burton, Pastor, Sweet Union Baptist Church.

The Pledge of Allegiance to the Flag of the United States of America was led by Mayor Smith.

PRESENTATIONS AND ACKNOWLEDGMENTS:

PROCLAMATIONS/RECYCLING: The Mayor presented a proclamation declaring Saturday, November 15, 2003, as America Recycles Day.

PROCLAMATIONS-LIBRARIES: The Mayor presented a proclamation declaring Saturday, November 15, 2003, as Valley Bookfest Day.

CONSENT AGENDA

The Mayor advised that all matters listed under the Consent Agenda were considered to be routine by the Members of Council and would be enacted by one motion in the form, or forms, listed on the Consent Agenda, and if discussion was desired, that item would be removed from the Consent Agenda and considered separately.

MINUTES: Minutes of the regular meeting of Council held on Monday, September 15, 2003, were before the body.

Mr. Harris moved that the reading of the minutes be dispensed with and that the minutes be approved as recorded. The motion was seconded by Mr. Dowe and adopted by the following vote:

AYES: Council Members Bestpitch, Cutler, Dowe, Harris, Wyatt, and Mayor Smith-----6.

NAYS: None-----0.

(Council Member Fitzpatrick was not in the Council Chamber when the vote was recorded.)

EASEMENTS-CITY PROPERTY: A communication from the City Manager advising that pursuant to requirements of the Code of Virginia (1950), as amended, Council is required to hold a public hearing on the proposed conveyance of property rights; whereupon, she requested that Council hold a public hearing on Monday, November 17, 2003, at 7:00 p.m., or as soon thereafter as the matter may be heard, on the request of Plantation Pipeline Company for an easement on Official Tax No. 4321020, was before the body.

Mr. Harris moved that Council concur in the request of the City Manager. The motion was seconded by Mr. Dowe and adopted by the following vote:

AYES: Council Members Bestpitch, Cutler, Dowe, Harris, Wyatt, and Mayor Smith-----6.

NAYS: None-----0.

(Council Member Fitzpatrick was not in the Council Chamber when the vote was recorded.)

COMMITTEES-ROANOKE CIVIC CENTER: A report of qualification of Calvin H. Johnson and Thomas G. Powers, Jr., as members of the Roanoke Civic Center Commission, for terms ending September 30, 2006, was before Council.

Mr. Harris moved that the report of qualification be received and filed. The motion was seconded by Mr. Dowe and adopted by the following vote:

AYES: Council Members Bestpitch, Cutler, Dowe, Harris, Wyatt, and Mayor Smith-----6.

NAYS: None-----0.

(Council Member Fitzpatrick was not in the Council Chamber when the vote was recorded.)

COMMITTEES-HOTEL ROANOKE CONFERENCE CENTER: A report of qualification of Minnis E. Ridenour as a Commissioner of The Hotel Roanoke Conference Center Commission, for a term ending June 30, 2005, was before Council.

Mr. Harris moved that the report of qualification be received and filed. The motion was seconded by Mr. Dowe and adopted by the following vote:

AYES: Council Members Bestpitch, Cutler, Dowe, Harris, Wyatt, and Mayor Smith-----6.

NAYS: None-----0.

(Council Member Fitzpatrick was not in the Council Chamber when the vote was recorded.)

REGULAR AGENDA

PUBLIC HEARINGS: NONE.

PETITIONS AND COMMUNICATIONS:

PARKS AND RECREATION-DISABLED PERSONS: John Elliott, President, Virginia Association of the Blind, Shenandoah Division, addressed Council with regard to funding for the Therapeutic Division of Roanoke County's Parks and Recreation V. I. P. Program for the visually impaired. He advised that the City of Roanoke appropriates \$9,800.00 per year for the Roanoke County Therapeutic Program, \$6,600.00 of which is designated for the Visually Impaired Program, and there appears to be an inequity in funding inasmuch as 40 per cent of program participants reside in the City of Roanoke.

Mr. Chris Smith, a participant of the Visually Impaired Program, advised that the program is instrumental in arranging for and providing recreational activities for visually impaired persons which enables them to build, develop and enlarge their social, physical, and emotional well being. He explained that staff of the VIP Program organize a monthly luncheon with round trip transportation, cooking classes, ceramic classes, physical exercise walking classes, dinner/theater plays, etc.; VIP staff assist participants on a one-on-one basis as necessary during each class event; the program provides printed materials in an accessible format, Braille or large print; and staff read programs for various plays and musicals at theaters and provide a descriptive analysis throughout the event to increase the content and meaning for visually impaired participants. In summary, he stated that the Visually Impaired Program is a well balanced and designed recreational program in the Roanoke area.

Ms. Velma Spangler, 2311 Crystal Spring Avenue, S. W., commended the work of the staff under the direct supervision of Ms. Betsy Dennis.

Without objection by Council, the Mayor advised that the matter would be referred to the City Manager for report to Council.

REPORTS OF OFFICERS:

CITY MANAGER:

DEPARTMENT OF TECHNOLOGY-CITY EMPLOYEES: The City Manager introduced John Elie, Director of Technology.

BRIEFINGS: (See pages 21-22)

ITEMS RECOMMENDED FOR ACTION:

INDUSTRIES: The City Manager submitted a communication advising that Blue Hills Drive, which provides access for industries located in the Roanoke Center for Industry and Technology (RCIT), has been extended as needed to serve the various parcels as developed; and an extension to Blue Hills Drive needs to be completed to allow for industrial access to the remaining parcels in the RCIT.

It was further advised that Council previously adopted Resolution No. 36296 050503 requesting that the Commonwealth Transportation Board provide financing up to \$450,000.00, on a matching basis, from the Industrial, Airport and Rail Access Fund for final extension of Blue Hills Drive; the measure also authorized the City Manager to execute the necessary documentation to accept funds; the City's request was approved by the Board on September 17, 2003, which approval is of a bonded nature, and means that the City would be required to pay back any funds received if the required development does not occur at RCIT; and an account should be established to accept funds received by the City.

The City Manager recommended that Council adopt an ordinance appropriating funds to Account No. 008-052-9632-9007 - RCIT Infrastructure Extension, in the Capital Projects Fund, and establish a revenue estimate in the same amount.

Mr. Dowe offered the following ordinance:

(#36535-110303) AN ORDINANCE to establish a revenue estimate and appropriate funding for the Blue Hills Drive Extension, amending and reordaining certain sections of the 2003-2004 Capital Projects Fund Appropriations, and dispensing with the second reading by title of this ordinance.

(For full text of Ordinance, see Ordinance Book No. 68.)

Mr. Dowe moved the adoption of Ordinance No. 36535-110303. The motion was seconded by Mr. Fitzpatrick and adopted by the following vote:

AYES: Council Members Bestpitch, Cutler, Dowe, Fitzpatrick, Harris, Wyatt, and Mayor Smith-----7.

NAYS: None-----0.

LEASES-COMMONWEALTH OF VIRGINIA BUILDING: The City Manager submitted a communication advising that on July 1, 1985, the City began leasing space in the Commonwealth Building, 210 Church Avenue, S. W., to the Commonwealth of Virginia, Department of General Services/Division of Engineering

and Buildings; the Department of General Services located several departments of the Commonwealth on the ground, first, and third floors of the property; over the years, various departments have moved throughout the building based on space needed; currently, the Department of Fire Programs is leasing approximately 4,800 square feet on the first floor and has determined that current space is more than is needed; and although the current lease will expire on June 30, 2005, the Department of Fire Programs has expressed a desire to relocate to a smaller office at a location which is better suited for accommodating large fire safety equipment that is periodically required to park at the site.

It was further advised that the United States General Services Administration also leases space in the Commonwealth Building for the United States Bankruptcy Court; The Bankruptcy Court has outgrown its space on the 2nd floor of the building and desires to expand its operation within the Commonwealth Building; and The Bankruptcy Court has identified space needs as being close to the size of the space being vacated by The Department of Fire Programs.

It was explained that the Department of Fire Programs has requested that the City amend the current lease agreement, reducing the total footage currently being leased to the Department of General Services by 4,800 square feet, to enable the Department of Fire Programs to be relocated to the newly identified office space; The United States Bankruptcy Court has agreed to begin leasing the space upon vacation by the Department of Fire Programs and appropriate renovation of space; and a lease with The Bankruptcy Court will be presented to Council for approval at a future public hearing.

It was noted that current rent paid by the Department of General Services for space is \$10.51 per square foot per year, for an annual rental amount of \$50,868.40; the General Services Administration's rental rate will be structured to recover all costs associated with renovation of the space, with a market rate increase to base rent; based on the loss of The Department of Fire Programs as a tenant in December 2003, countered by the gain of The Bankruptcy Court as a tenant in early 2004 with higher rental rates, the net effect on rental revenue is expected to be neutral for fiscal year 2004, with an increase projected for fiscal year 2005.

The City Manager recommended that she be authorized to execute the Lease Amendment authorizing the Department of General Services to decrease the amount of space being leased in the Commonwealth Building and permitting the Department of Fire Programs to vacate the building, effective December 1, 2003.

Mr. Dowe offered the following ordinance:

(#36536-110303) AN ORDINANCE authorizing the amendment of an existing lease agreement between the City of Roanoke and the Commonwealth of Virginia, Department of General Services/Division of Engineering and Buildings, by reducing the amount of square footage being leased in the Commonwealth Building located

at 210 Church Avenue, S. W.; authorizing the release of the Lessee from a portion of the leased premises, upon certain terms and conditions, and dispensing with the second reading of this ordinance.

(For full text of Ordinance, see Ordinance Book No. 68.)

Mr. Dowe moved the adoption of Ordinance No. 36536-110303. The motion was seconded by Mr. Cutler and adopted by the following vote:

AYES: Council Members Bestpitch, Cutler, Dowe, Fitzpatrick, Harris, Wyatt, and Mayor Smith-----7.

NAYS: None-----0.

DIRECTOR OF FINANCE:

DIRECTOR OF FINANCE-AUDITS-FINANCIAL REPORTS: The Director of Finance submitted the Financial Report for the month of September, 2003.

Without objection by Council, the Mayor advised that the September Financial Report would be received and filed.

REPORTS OF COMMITTEES: NONE.

UNFINISHED BUSINESS: NONE.

INTRODUCTION AND CONSIDERATION OF ORDINANCES AND RESOLUTIONS: NONE.

MOTIONS AND MISCELLANEOUS BUSINESS:

INQUIRIES AND/OR COMMENTS BY THE MAYOR, VICE-MAYOR AND MEMBERS OF CITY COUNCIL:

CITY COUNCIL-ELECTIONS: Council Member Wyatt called attention to her campaign for the House of Delegates; whereupon, she expressed appreciation to her opponents, Gary Bowman and William Fralin, for conducting positive political campaigns.

CITY COUNCIL-ELECTIONS: Council Member Bestpitch called attention to the Vaccinate and Vote Campaign through the Community Based Immunization Project. He advised that on Election Day, November 4, 2004, representatives of the Vaccinate and Vote Program will be present at 27 of the City's voting precincts to provide information on the program, and flu vaccinations will be given from 9:00 a.m. to 2:00 p.m., at Preston Park Elementary School.

VIRGINIA MUNICIPAL LEAGUE: Council Member Bestpitch referred to a communication from R. Michael Amyx, Executive Director, Virginia Municipal League, commending the City of Roanoke for its hospitality in hosting the Annual

Conference of the Virginia Municipal League on October 19-21, 2003. He advised that pursuant to action of the Council at its 9:00 a.m. work session, the Virginia Municipal League will be invited to return to the City of Roanoke in 2009.

ARMORY/STADIUM-ENVIRONMENTAL POLICY-ROANOKE CIVIC CENTER: Council Member Bestpitch referred to concerns that have been raised regarding the land on which the City plans to construct a stadium/amphitheater at Orange Avenue and Williamson Road. He read an excerpt from a communication from Faulkner and Flynn, Engineers, stating that, "The scope of the investigative work, the extent of the City's removal and the quantitative nature of the risk analysis performed by the City of Roanoke on this site far exceeds the general criteria for performing an environmental assessment in accordance with industry standards. The City of Roanoke has demonstrated with a high degree of certainty that the subject site does not and will not pose an unacceptable risk to human health or the environment".

Mr. Bestpitch advised that according to scientific evidence, there is no health risk associated with people who will use the stadium/amphitheater site at Orange Avenue and Williamson Road, and no health risk to persons who live as far away as the other side of I-581. He stated that unless someone can produce scientific evidence to the contrary, he will rely on the advice of experts who have spent a considerable amount of time and effort working on the site, involving more than that which is typically associated with an environmental assessment.

FIRE DEPARTMENT-POLICE DEPARTMENT: The Mayor referred to questions regarding new security alarm permit requirements of the City. He stated that Council previously authorized a fee relative to false alarms under certain conditions, but he was not aware of the provision for a \$25.00 fee for the first call and \$20.00 annually thereafter.

The City Manager advised that two false alarm ordinances were adopted by the Council, one with regard to alarms responded to by the Fire Department and a second for alarms responded to by the Police Department, both of which contain a registration fee for a business activity, effective January 1, 2004; therefore, the notification and education period has commenced. She called attention to provisions for a fee for false alarms following a certain number of false alarms within any given calendar year, and advised that a copy of the report detailing the proposed revisions will be forwarded to Council.

HEARING OF CITIZENS UPON PUBLIC MATTERS: The Mayor advised that Council sets this time as a priority for citizens to be heard, and matters requiring referral to the City Manager will be referred immediately for any necessary and appropriate response, recommendation or report to Council.

ARMORY/STADIUM: Mr. John E. Kepley, 2902 Morrison Avenue, S. E., inquired as to Council's reasons for voting to construct a new sports complex, which will ultimately result in the tearing down of the present Victory Stadium; how

much do the plans for the new Bio Tech Research Center play in the Council's decisions; how much does Carilion Health System play in the equation; does Carilion want the land on which Victory Stadium now stands; were funds and other benefits given to certain Council Members during past Councilmanic elections in order to influence their votes; why did Council Member Fitzpatrick and Vice-Mayor Harris vote to reconsider the matter; and why did Council Member Fitzpatrick and Vice-Mayor Harris not fight to save Victory Stadium. He stated that Council Member Dowe's vote was considered to be the swing vote, which sealed the decision for the new complex, whereupon, he questioned whether Mr. Dowe's vote was politically motivated. He advised that if Victory Stadium is torn down, the City will be destroying the heritage of thousand's of Roanokers.

Mr. Robert E. Gravely, 929 Loudon Avenue, N. W., presented a document with regard to a complete investigation for all wrong doings and that actions are taken on behalf for the citizens and the work force. He would like to be presented by the City to the Circuit Court and suggested that the document he submitted to the Circuit Court.

He advised that more taxes are being imposed on the citizens of Roanoke, people are moving out of the City, Roanoke is becoming less and less of a vibrant city, the City spent \$300,000.00 on a branding design that could have been done by local high students for \$1,000.00 - \$5,000.00; and the City's work force is not adequately compensated for their work.

COMPLAINTS-CITY GOVERNMENT: Mr. Robert E. Gravely, 929 Loudon Avenue, N. W., appeared before Council and submitted the following request: "On behalf of the Citizens of Roanoke and the City work force, the following have been requested: For a Spiritual inquisition on Roanoke City Council and appointed personnel to be present to discuss issues on how the City of Roanoke is being miss managed and how the City Treasure is being used. A demand has been requested for a complete investigation for all wrong doings and that actions are taken on behalf of the citizens and the work force. That a Spiritual deposition be given to put "Gods" salvation in place".

ARMORY/STADIUM: Ms. Evelyn D. Bethel, 35 Patton Avenue, N. E., referred to the decision of Council to construct a stadium/amphitheater at the Orange Avenue and Williamson Road site which will lead to dire economic and health consequences for future adults and their children, because the \$18 million recreation and entertainment facility will be constructed on an incompletely tested hazardous waste field. She stated that the proposed stadium/amphitheater site, in its entirety, has not been tested and may not be free of all hazardous materials, yet excavation continues by persons who are not qualified to evaluate contaminated material. She stated that it will not take that much more time or money on the part of the City to ensure for future generations of Roanokers that the facility is constructed on a safe and environmentally tested site.

COUNCIL: The Mayor advised that earlier in the day, Council Members discussed various suggestions in regard to how Council might communicate agenda items in a better way to those citizens watching the proceedings on RVTv, Channel 3 whereupon, he invited citizens to share their suggestions for improvements.

CITY MANAGER COMMENTS:

CITY EMPLOYEES: The City Manager recommended that City offices be closed on December 26, 2003 and January 1, 2004.

Mr. Bestpitch offered the following resolution:

(36537-110303) A RESOLUTION closing certain City offices on Friday, December 26, 2003, the day after Christmas, and Friday, January 2, 2004, the day after New Year's; and providing for additional holiday leave for all City employees.

Mr. Bestpitch moved the adoption of Resolution No. 36537-110303. The motion was seconded by Mr. Harris and adopted by the following vote:

AYES: Council Members Bestpitch, Cutler, Dowe, Fitzpatrick, Harris, Wyatt, and Mayor Smith-----7.

NAYS: None-----0.

At 3:05 p.m., the Mayor declared the meeting in recess for one briefing and one Closed Session.

At 3:10 p.m., the Council meeting reconvened in the Council's Conference Room for a briefing on boundary line adjustments with all Members of the Council in attendance, Mayor Smith presiding.

BOUNDARY LINE ADJUSTMENTS: The City Manager advised that Roanoke County has approached the City of Roanoke with a proposed boundary adjustment for several properties - Vinyard Park and Rockydale Quarries; the Roanoke County Administrator and the City Manager have discussed adjusting the boundary line between the County and the City to benefit both jurisdictions; boundary adjustments consist of the following: (1) moving 57.88 acres of Vinyard Park from the City to the County, (2) moving 7.02 acres of land owned by Rockydale Quarries from the County to the City, and (3) moving approximately 38 acres of land associated with the Roanoke Regional Water Pollution Control Plant from the County to the City.

Vinyard Park - Roanoke County owns two parcels of land located within City boundaries; the two parcels are in the area that is used by the County as a public park and soccer field (Vinyard Park); and adjusting the boundary line for the 57.88 acres places the Vinyard Park parcels within Roanoke County, thus consolidating the park land within one municipality.

Rockydale Quarries - The bulk of the Rockydale Quarries facility is located in the City, 4754 Old Rocky Mount Road; however, as the result of an exchange transaction with the Parkway several years ago, Rockydale Quarries acquired a 7.2 acre parcel of land which is located within Roanoke County; in this portion of the Valley, the Parkway serves as the dividing line between the City and the County; the boundary adjustment would, in effect, establish the Blue Ridge Parkway as the dividing buffer between the City and the County, as well as consolidate Rockydale Quarries Corporation facility property within one municipality.

Mr. Bestpitch advised that he did not object to the recommendation of the City Manager; however, he did not understand some of the verbiage in the communication which could reappear in some form as the process moves forward. In regard to Rockdale Quarries, he stated that the communication states that, “in this portion of the valley the Parkway serves as a dividing line between the City and the County”, which is confusing because the City’s boundary does not extend all the way down to the Parkway. Therefore, he stated that it would appear that some clarification is in order.

Mr. Fitzpatrick cautioned that Norfolk Southern should be used on all documents in lieu of Norfolk and Southern Railroad.

The Mayor spoke to the importance of open communication with the citizens of the above referenced areas.

The Mayor inquired if there were objections by Council to the proposal presented by the City Manager, to which no Member of Council expressed a concern or objection.

At 3:30 p.m., the Council convened in Closed Session in the Council’s Conference Room.

At 3:45 p.m., the meeting reconvened in the Council Chamber, with all Members of the Council in attendance, Mayor Smith presiding.

COUNCIL: With respect to the Closed Meeting just concluded, Mr. Fitzpatrick moved that each Member of City Council certify to the best of his or her knowledge that: (1) only public business matters lawfully exempted from open meeting requirements under the Virginia Freedom of Information Act; and (2) only such public business matters as were identified in any motion by which any Closed Meeting was convened were heard, discussed or considered by City Council. The motion was seconded by Mr. Dowe and adopted by the following vote:

AYES: Council Members Bestpitch, Cutler, Dowe, Fitzpatrick, Harris, Wyatt, and Mayor Smith-----7.

NAYS: None-----0.

COMMITTEES-LIBRARIES-OATHS OF OFFICE: The Mayor advised that there is a vacancy on the Roanoke Public Library Board created by the death of Betty B.

Parrott, for a term ending June 30, 2006; whereupon, he opened the floor for nominations.

Mr. Fitzpatrick placed in nomination the name of Sam G. Oakey, III.

There being no further nominations, Mr. Oakey was appointed as a member of the Roanoke Public Library Board to fill the unexpired term of Betty B. Parrott, deceased, ending June 30, 2006, by the following vote:

FOR MR. OAKEY: Council Members Bestpitch, Cutler, Dowe, Fitzpatrick, Harris, Wyatt, and Mayor Smith-----7.

COMMITTEES-YOUTH: The Mayor advised that there is a vacancy on the Youth Services Citizen Board; whereupon, he opened the floor for nominations.

Mr. Fitzpatrick placed in nomination the name of Juan D. Motley.

There being no further nominations, Mr. Motley was appointed as a member of the Youth Services Citizen Board, for a term ending May 31, 2006, by the following vote:

FOR MR. MOTLEY: Council Members Bestpitch, Cutler, Dowe, Fitzpatrick, Harris, Wyatt and Mayor Smith-----7.

At 3:50 p.m., the Mayor declared the meeting in recess until Friday, November 14, 2003, at 12:00 noon, at the Salem Civic Center, Parlor C, 1001 Boulevard, Salem, Virginia, for the Regional Leadership Summit with General Assembly Representatives.

The City Council meeting reconvened on Friday, November 14, 2003, at 12:00 noon at the Salem Civic Center, Parlor C, 1001 Boulevard, Salem, Virginia, for a meeting of representatives of the Regional Leadership Summit.

PRESENT: Council Member Alfred T. Dowe, Jr., and Mayor Ralph K. Smith-----2.

ABSENT: Council Members William D. Bestpitch, M. Rupert Cutler, Beverly T. Fitzpatrick, Jr., C. Nelson Harris and Linda F. Wyatt-----5.

OFFICERS PRESENT: Darlene L. Burcham, City Manager; and Sheila N. Hartman, Assistant City Clerk.

Also present were: Senator John S. Edwards, Senator-elect J. Brandon Bell, Delegate H. Morgan Griffith, Delegate Ward L. Armstrong, Delegate-elect William H. Fralin, Jr.; Wayne G. Strickland, Secretary, Fifth Planning District Regional Alliance;

and members of City Councils/Boards of Supervisors and staff of the following localities: Alleghany County, Botetourt County, Franklin County, Roanoke County, City of Covington, City of Roanoke, City of Salem, Town of Clifton Forge, Town of Rocky Mount and Town of Vinton.

Wayne G. Strickland, Secretary, Fifth Planning District Regional Alliance, congratulated members-elect to the General Assembly, and referred to the Regional Legislative Agenda as follows:

EDUCATION: Joeseeph McNamara, Chairman, Roanoke County Board of Supervisors, stated that the General Assembly should fully fund the Standards of Quality (SOQ's), and that the Commonwealth has an obligation to fund the Standards of Quality on the basis of realistic costs - - reflecting actual educational practices to include capital, operating and maintenance costs.

TAXING AND FUNDING: Mayor Carl E. "Sonny" Tarpley, Jr., City of Salem, stated that the General Assembly should eliminate the distinction in taxing authority of Virginia's cities and counties; counties should possess the same authority as cities to levy taxes on tobacco products, lodging, meals and admissions; the Tax Commission has recommended elimination of the distinction in taxing authority; and the General Assembly should not limit or restrict existing local revenue sources.

W. Wayne Angell, Chairman, Franklin County Board of Supervisors, stated that the Commonwealth should to move aggressively to reform its tax system, inasmuch as two study commissions have been established to examine the problem of funding state and local governments, without any major movement toward tax reform. He further stated that a new Tax Code Study Commission was recently established, the General Assembly should encourage the Commission to complete its work and act on the Commission's recommendations to ensure that Virginia's tax system is fair and aligns service delivery responsibilities with revenue sources at the state and local level. He added that Franklin County collected real estate and personal property taxes of approximately \$21.5 million, but the amount did not equal their local allocation for schools of \$23,028,000.00. He expressed Franklin County's willingness to be of assistance in working through the difficult task of tax reform.

Mayor Temple L. Kessinger, Jr., City of Covington, stated that funding for Virginia's Regional Competitiveness Program (RCP) was eliminated in 2002, and the General Assembly should to fund this important program. He further stated that the Commonwealth established the RCP in 1996 and more than 227 regional projects throughout Virginia have been supported by RCP funds, each dollar being leveraged with \$19 of non-state funds; and that Roanoke Valley-Alleghany region RCP funds have been used to support regional industrial parks, workforce development/education, tourism and infrastructure development.

LOCAL AUTHORITY: Mayor Kessinger stated that the General Assembly should not pass legislation that takes away local government authority over land use issues; for example, legislation may be considered in an upcoming session that will require manufactured housing to be permitted “by right” in all residential zoned districts, and such legislation would directly affect the power of local councils and boards to control land use in their communities. He further stated that each locality should make decisions based upon what is best for their locality and encourage legislators to leave land use decisions to the individual localities.

TRANSPORTATION: Stephen P. Clinton, Chairman, County of Botetourt, stated that the General Assembly should require VDOT to identify a funding mechanism to expedite the widening improvements to I-81, inasmuch as I-81 is the economic lifeblood of Western Virginia and improvements to the highway will enhance safety and promote the economy of this region; communities in Western Virginia cannot wait 40-50 years for widening of I-81 to take place since the area of I-81 in Botetourt County is considered to be one of the deadliest stretches of roadway, with 19 lives having been lost in 2001 alone. He stated that North Carolina intends to widen I-95 at a cost \$3 billion and will use tolls to help offset the cost, and the project will create a large number of jobs in that area. He further stated that he was aware that resolutions have been adopted by local jurisdictions supporting the rails initiative, but economic and technological benefits have yet to be proven, and requested that legislators not lose sight of the capacity and safety needs of I-81. In addition, he stated that the General Assembly should fund the Smart Road with funds other than those allocated for the Salem Transportation District, since this highway facility represents an economic benefit for the entire Commonwealth and the nation and, as such, should not come solely from this region’s highway allocation.

Mayor Ralph K. Smith, City of Roanoke, stated that the Commonwealth should plan for development of rail freight along I-81 to complement the widening of the interstate, with the purpose of moving a large volume of the long-distance freight traffic from trucks to freight trains on dual high-speed rails parallel to I-81; the General Assembly should fund implementation of passenger rail service in the Roanoke to Bristol corridor; and rail service would provide a good multi-modal addition to highways and airports currently serving the region. He stated that localities are in favor of both freight and passenger rail service in the area, but this initiative should not slow down the improvements to I-81. He further stated that localities want their fair share of funding from state government; and tax restructuring could be achieved by all localities agreeing to be revenue neutral and becoming more efficient in the tax system. He mentioned that AirTran has a website and requests input from citizens as to where they would like air service next, and requested that interested parties go to the website and type “Roanoke” in the “other” category.

Mayor Donald L. Davis, Town of Vinton, stated that localities need help on important issues of the region and requested that they be given the authority to do their jobs and the funds to serve their citizens; and asked that legislators proceed to get things accomplished and to work together as a team to bring funds and improvements to the western part of the state.

COMMENTS BY LEGISLATORS:

Senator John S. Edwards stated that the Governor has advised that there needs to be an additional \$525 million added to public education to stay even; \$1 billion of new money is needed in the bi-annual budget to stay even; colleges need \$397+ million to make up for erosion of state funding; the state is not investing as it should to ensure prosperity; the state is in the worst fiscal crisis since World War II, and the General Assembly is not responding as it should; 34 jurisdictions agree that improvements need to be made to I-81, in addition to rail initiatives; a Bill will be considered creating an authority to study transportation issues; the cost of freight rail service could be offset by a surcharge on freight; freight rail service would reduce the number of large trucks on I-81 which start in one state and end in another, making Virginia a “bridge state”, and these trucks do nothing for Virginia’s economy.

Senator-elect J. Brandon Bell requested that representatives of various localities provide information to him by December 17, 2003, inasmuch as the budget must be presented to the General Assembly on December 20, 2003; he expects to receive considerable information and requests feed back from representatives as quickly as possible; he will make a reserved judgment in considering issues brought to the General Assembly that might be beneficial or detrimental to Southwest Virginia; and he will try to align himself with committee assignments that are open to him, especially a seat on the Transportation Committee, so as to maintain the balance that previously existed with representation throughout the state.

Delegate H. Morgan Griffith referred to the handout setting forth the calendar for reviewing bills and stated that he supports streamlining the process for reviewing bills introduced to the General Assembly, and reducing the number of bills from 3,200 to about 2,800 bills per year. He cautioned that there will be challenging years ahead; inflation is an issue; the budget has grown in ten years from under \$30 billion to about \$52 billion; a downturn in the economy changed funding projections; and he supports re-benchmarking the SOQ’s. He stated that he supports a rail component, but not at the abandonment of widening I-81, as population growth demands improvements; freight rail service will help address the problem of freight trucks traveling from Georgia to New York, but Virginia is also an important distribution state, and local trucking companies cannot be overlooked. He further stated that there is a watch list and he does not want to create too many authorities that will not have the full faith and credit of the Commonwealth behind their bonds, wherein could cause the loss of AAA bond rating; he is not in immediate agreement concerning passenger rail service in the Roanoke Valley, but as a realist, he knows that there must exist a society and a population mass within the corridor

being served by the rails to make it feasible and, for business reasons, he would place the matter on the back burner until it is shown that there will be enough support to make passenger rail service in the area feasible. He added that another problem is the taxing authority for cities and counties, rural counties do not operate the same as cities, for example, VDOT takes care of snow removal for counties, but cities must remove and pay for their own snow removal. He agreed that taxing authority must be reviewed as a comprehensive package and suggested that representatives via the Internet, to watch for bills that may affect their localities, to familiarize themselves with the bills and to contact him as soon as possible so that amendments may be submitted as bills are considered and voted upon; and requested that representatives use the direct telephone line to his office rather than the toll free number.

(For full text, see Joint Rules Committee Calendar for the balance of 2003 and for the 2004 General Assembly Session on file in the City Clerk's Office.)

Delegate Ward L. Armstrong stated that the SOQ's are grossly underfunded; I-81 improvements will be a tough fight; the Southwestern Virginia delegation to the General Assembly must begin to think and work regionally because delegates from the Northern Virginia, Tidewater and Richmond areas make up 75% of the total number of delegates; the Governor's tax reform plan will soon be unveiled and some localities will gain and some will lose; \$1 billion must be cut from the budget in addition to the \$5 billion which was previously cut, making a total of \$6 billion to be cut over a period of three years, with all cuts coming from non-education areas; and it is not believed that significant relief will come from the General Assembly; however, with the economy appearing to be turning around, state revenues may begin to change by January 2005. He further stated that while Virginia is a low tax state, the temptation to raise taxes, as well as to lower taxes, should be resisted; the situation with I-81 must be addressed inasmuch as it is the most dangerous roadway in the Commonwealth of Virginia and perhaps the nation; he does not foresee sufficient funds being made available in the next two years to address the rail issue; and he looks forward to working with area delegates for the betterment of Southwest Virginia.

Delegate-elect William H. Fralin, Jr. stated that he is excited about the opportunity to work with other representatives in the district; area representatives must stick together on issues, considering the influence of Northern Virginia; he would like to work in partnership with other legislators for the benefit of Southwestern Virginia and to address cultural issues affecting the area; he looks at this area of Virginia as the "Southwest Virginia Team", representing and working for the same citizens; and requested that citizens contact him at his direct telephone number (540) 776-7499.

OTHER BUSINESS/ANNOUNCEMENTS:

Mr. Strickland stated that there will be a Mayors and Chairs meeting in December, 2003, at a date and location to be announced at a later date.

There being no further business, the Mayor declared the meeting of Roanoke City Council adjourned at 1:45 p.m.

A P P R O V E D

ATTEST:

**Mary F. Parker
City Clerk**

**Ralph K. Smith
Mayor**



RALPH K. SMITH
Mayor

CITY OF ROANOKE
OFFICE OF THE MAYOR

215 CHURCH AVENUE, S.W., ROOM 452
ROANOKE, VIRGINIA 24011-1594
TELEPHONE: (540) 853-2444
FAX: (540) 853-1145

December 15, 2003

The Honorable Vice-Mayor and Members
of the Roanoke City Council
Roanoke, Virginia

Dear Members of Council:

This is to request a Closed Meeting to discuss vacancies on certain authorities, boards, commissions and committees appointed by Council, pursuant to Section 2.2-3711 (A)(1), Code of Virginia (1950), as amended.

Sincerely,

A handwritten signature in black ink, appearing to read "Ralph K. Smith", is written over a faint, larger version of the same signature.

Ralph K. Smith
Mayor

RKS:snh



RALPH K. SMITH
Mayor

CITY OF ROANOKE

CITY COUNCIL

215 Church Avenue, S.W.
Noel C. Taylor Municipal Building, Room 456
Roanoke, Virginia 24011-1536
Telephone: (540) 853-2541
Fax: (540) 853-1145

Council Members:
William D. Bestpitch
M. Rupert Cutler
Alfred T. Dowe, Jr.
Beverly T. Fitzpatrick, Jr.
C. Nelson Harris
Linda F. Wyatt

December 15, 2003

The Honorable Mayor and Members
of City Council
Roanoke, Virginia

Dear Mayor and Members of Council:

We jointly sponsor a request of The Honorable George M. McMillan, Sheriff, City of Roanoke, to address Council with regard to establishment of an Inmate Fee Program for FY 2004 in connection with House Bill 2765 at the regular meeting of City Council on Monday, December 15, 2003.

Sincerely,

C. Nelson Harris, Vice-Mayor

Alfred T. Dowe, Jr., Council Member

CNH/ATD:snh

c: City Attorney
Director of Finance
City Clerk



Major James M. Brubaker
Chief Deputy
(540) 853-2056

Captain Glenn E. Billingsley
Jail Security Commander
(540) 853-1750

Office of the Sheriff

Sheriff George M. McMillan

P.O. Box 494
Roanoke, VA 24003
(540) 853-2941 Fax (540) 853-5353
E-mail: sheriff@ci.roanoke.va.us
Internet: <http://www.roanokegov.com>



Captain Paul D. Barrett
Court Services Commander
(540) 853-2580

Captain David F. Cox
Services Commander
(540) 853-1821

December 15, 2003

Honorable Ralph K. Smith, Mayor
Honorable C. Nelson Harris, Vice-Mayor
Honorable William D. Bestpitch, Council Member
Honorable M. Rupert Cutler, Council Member
Honorable Alfred T. Dowe, Jr., Council Member
Honorable Beverly T. Fitzpatrick, Jr., Council Member
Honorable Linda F. Wyatt, Council Member

Dear Mayor Smith and Members of City Council:

Background:

During the 2003 session the Virginia General Assembly passed legislation which added section 53.1-131.3, "Payment of costs associated with prisoner keep." This legislation states "any Sheriff or jail superintendent may establish a program to charge inmates a reasonable fee, not to exceed \$1.00 per day, to defray the costs associated with the prisoners' keep. The Board shall develop a model plan and adopt regulations for such program, and shall provide assistance, if requested, to the Sheriff or jail superintendent in the implementation of such program. Such funds shall be retained in the locality where the funds were collected and shall be used for general jail purposes."

I was selected by the Board of Corrections to sit on the committee which was responsible for the development of the model plan as stated in the above code section. In doing so, I wanted to ensure that the funds received were maintained by the locality strictly for jail purposes. It is my desire to implement this program and based upon Fiscal Year 2002-03, we have the potential of collecting \$225,240.00 from this program, on an annual basis for the jail. A copy of the model plan which was adopted for this program is attached.

It is my intent to use the revenue generated from this program to fund four (4) full-time deputy sheriff positions which are needed within the jail and jail annex. The annual cost for funding these four (4) positions would be \$140,104. The Fiscal Year 2004 cost for the half year is \$70,052.



A NATIONALLY ACCREDITED SHERIFF'S OFFICE



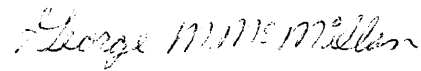
Recommendation:

City Council authorize the Director of Finance to establish a revenue estimate in the amount of \$70,052 for FY 2004 for the Inmate Fee Program.

City Council authorize the addition of four (4) deputy sheriff positions beginning January 1, 2004 and continuing from year to year so long as the Inmate Fee Program is operated by the Sheriff and appropriate funding to the following expenditure accounts:

Regular Salaries (001-140-3310-1002) -	\$59,042
VRS Retirement (001-140-3310-1110) -	\$ 6,494
FICA (001-140-3310-1120) -	\$ 4,516

Sincerely,



George M. McMillan
Sheriff, City of Roanoke

GMM

C: Mary F. Parker, City Clerk
Darlene Burcham, City Manager
William M. Hackworth, City Attorney
Jesse A. Hall, Director of Finance

CO03-00005



COMMONWEALTH of VIRGINIA

GENE M. JOHNSON
DIRECTOR

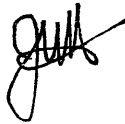
Department of Corrections

September 26, 2003

P. O. BOX 26963
RICHMOND, VIRGINIA 23261
(804) 674-3000

MEMORANDUM


TO: Sheriffs, Superintendents and Administrators of Local and Regional Jails

From: Joseph W. Hagenlocker
Manager, Compliance and Accreditation 

Subject: House Bill 2765 – Model Plan

On September 17, 2002, the Board of Corrections approved the attached model plan. Board Chairman Hester asked that I advise you accordingly. The plan is provided as a guide if you elect to adopt this program. The development of appropriate standard (s) or the inclusion to existing standard (s) as it relates to this program will be accomplished in the next several months and moved through the appropriate administrative approval process.

If you have any questions, feel free to contact Mr. Ron Elliott, Ms Donna Lawrence or myself.

Cc:  Mr. Clay Hester, Chairman, Board of Corrections
Mr. Gene Johnson, Director, Department of Corrections
Ms. N. H. Scott, Deputy Director, Department of Correction

Introduction

The 2003 session of the Virginia General Assembly passed House Bill 2765 which became law effective July 1, 2003. This legislation amended the Code of Virginia by adding a section numbered 53.1-131.3 as follows:

Any sheriff or jail superintendent may establish a program to charge inmates a reasonable fee, not to exceed \$1. 00 per day, to defray the costs associated with the prisoners' keep. The Board shall develop a model plan and adopt regulations for such program, and shall provide assistance, if requested, to the sheriff or jail superintendent in the implementation of such program. Such funds shall be retained in the locality where the funds were collected and shall be used for general jail purposes.

In compliance with the requirement of House Bill 2765 that the Board of Corrections develop a model plan for such a program, a committee of Sheriffs, Jail Administrators, Board of Corrections members and Department of Corrections staff was organized. A literature review and interviews with administrators of similar programs throughout the country were conducted. The Macomb County, Michigan Jail in 1985, developed the first fee charging payment of costs associated with prisoners' keep program. Base fees are from \$6.00 to \$56.00 with annual revenues exceeding \$200,000. The committee could not find any successful litigation challenging the implementation of such fees.

The result of this research has been the development of a model plan to help guide Virginia Sheriffs or Superintendents who elect to establish a program to charge in-house inmates a reasonable fee, not to exceed \$1.00 per day, to defray the costs associated with the prisoners' keep.

Program Components

Based upon a review of existing programs in the nation and Virginia's medical copay program the following components are considered essential for successful implementation of programs charging fee for prisoners' keep programs:

1. Written policy and procedure, unless federal contract precludes, which addresses items such as fee amount, inmate orientation and notification, payment procedures and accounting procedures, and which, if any inmates are exempted;
2. Development of administrative forms; and
3. Staff training for security and administrative personnel.

Model Plan

Upon the commitment of an inmate to jail, intake processing should include the issuance of a written statement informing the inmate of the fee for prisoners' keep program and method of payment. Orientation should include all pertinent information on fees and program areas. Inmate's signature should be required to document notification.

If the release date and the date of arrival are within 24 hours, the inmate shall be charged only the equivalent of one day's fee.

Whenever an inmate has been charged the prisoner's keep fee, the deduction shall be reflected on the inmate's account. Should the inmate have no funds, then the account may be debited until funds are available.

IN THE COUNCIL OF THE CITY OF ROANOKE, VIRGINIA

AN ORDINANCE appropriating funds for additional deputy sheriff positions and establishing a new fee for the care of prisoners at the Jail, amending and reordaining certain sections of the 2003-2004 General Fund Appropriations, and dispensing with the second reading by title of this ordinance.

BE IT ORDAINED by the Council of the City of Roanoke that the following sections of the 2003-2004 General Fund Appropriations be, and the same are hereby, amended and reordained to read and provide as follows:

Appropriations		
Regular Salaries	001-140-3310-1002	\$ 59,042
VRS Retirement	001-140-3310-1110	6,494
FICA	001-140-3110-1120	4,516
Revenues		
Prisoner Care Fee	001-110-1234-1379	70,052

Pursuant to the provisions of Section 12 of the City Charter, the second reading of this ordinance by title is hereby dispensed with.

ATTEST:

City Clerk.

WMH
IN THE COUNCIL OF THE CITY OF ROANOKE, VIRGINIA,

A RESOLUTION concurring in the establishment by the Sheriff of an Inmate Fee Program pursuant to §53.1-131.3, Code of Virginia (1950), as amended, and approving four (4) full-time deputy sheriff positions needed within the jail and jail annex, beginning January 1, 2004, and continuing from year to year so long as the Inmate Fee Program is operated by the Sheriff.

WHEREAS, during the 2003 Session of the General Assembly, §53.1-131.3, Code of Virginia (1950), as amended, was enacted and provides that "any sheriff or jail superintendent may establish a program to charge inmates a reasonable fee, not to exceed \$1.00 per day, to defray the costs associated with the prisoners' upkeep," and the Sheriff is desirous of establishing such program;

THEREFORE, BE IT RESOLVED by the Council of the City of Roanoke, as follows:

1. City Council hereby concurs in the establishment by the Sheriff of an Inmate Fee Program pursuant to §53.1-131.3, Code of Virginia (1950), as amended, to defray the costs associated with the prisoners' upkeep.

2. City Council hereby approves the addition of four (4) deputy sheriff positions, needed within the jail and the jail annex, beginning January 1, 2004, and continuing from year to year so long as the Inmate Fee Program is operated by the Sheriff.

ATTEST:

City Clerk.



**CITY OF ROANOKE
OFFICE OF THE CITY MANAGER**

Noel C. Taylor Municipal Building
215 Church Avenue, S.W., Room 364
Roanoke, Virginia 24011-1591
Telephone: (540) 853-2333
Fax: (540) 853-1138
CityWeb: www.roanokegov.com

December 15 2003

The Honorable Mayor
and Members of City Council
Roanoke, Virginia

Dear Mayor and Members of Council:

I would like to sponsor a request from Gregg Lewis, member of the Board of Directors of The Arts Council of the Blue Ridge, in which he will be thanking City Council for their support of The Arts Council's "Downtown—This Is Living!" at the regular meeting of City Council on Monday, December 1, 2003.

Respectfully submitted,

A handwritten signature in black ink, appearing to read "Darlene L. Burcham".

Darlene L. Burcham
City Manager

DLB:sm

c: City Attorney
Director of Finance
City Clerk



November 20, 2003

Ms. Darlene Burcham
City Manager
City of Roanoke
215 Church Avenue, SW
Roanoke, VA 24017

Dear Darlene:

Gregg Lewis, member of the Board of Directors of The Arts Council of the Blue Ridge and Co-Chair of "Downtown -- This Is Living!," requests the opportunity to appear before Roanoke City Council to thank them for the City's support of The Arts Council's "Downtown -- This Is Living!." This walking tour of residential spaces in downtown Roanoke was held on October 18 & 19, 2003. Gregg wishes to briefly relate the event's success and how it brought over 1500 people to experience the vitality of downtown.

If you have questions or concerns please call me at 342-5790. Thank you for the opportunity to work with the City of Roanoke.

Sincerely,

Susan Jennings
Executive Director



**CITY OF ROANOKE
OFFICE OF THE CITY MANAGER**

Noel C. Taylor Municipal Building
215 Church Avenue, S.W., Room 364
Roanoke, Virginia 24011-1591
Telephone: (540) 853-2333
Fax: (540) 853-1138
CityWeb: www.roanokegov.com

December 15 2003

The Honorable Mayor
and Members of City Council
Roanoke, Virginia

Dear Mayor and Members of Council:

I would like to sponsor a request from Sheri Bernath, member of the Board of Blue Ridge Behavioral Healthcare, in which she will be updating City Council about the services provided to City of Roanoke residents in fiscal year 2003.

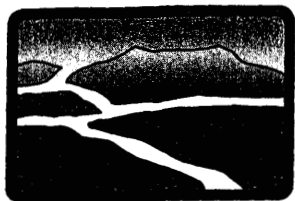
Respectfully submitted,

A handwritten signature in cursive script, reading "Darlene L. Burcham".

Darlene L. Burcham
City Manager

DLB:sm

c: City Attorney
Director of Finance
City Clerk



Blue Ridge Behavioral Healthcare

Rita J. Gliniecki *Chairman*
John M. Hudgins, Jr. *Vice Chairman*
Robert Williams, Jr. *Treasurer*
Meredith B. Waid *Secretary*

Executive Director
S. James Sikkema, LCSW

October 24, 2003

Ms. Darlene L. Burcham
City Manager
City of Roanoke
215 Church Avenue, SW
Roanoke, VA 24011

Dear Ms. Burcham:

Blue Ridge Behavioral Healthcare would like to request a few minutes on the agenda of the Roanoke City Council meeting on Monday, December 15, 2003, to give a brief report about the services we provided to Roanoke City residents in fiscal year 2003.

A board member representing the City of Roanoke will deliver our report, and our Executive Director, Mr. Jim Sikkema, will also be present to answer questions.

We appreciate this annual opportunity to share information about our services and to say 'thank you'.

Sincerely,

Hunter B. Roberts
Executive Office Administrator

C: The Honorable Ralph K. Smith, Mayor
Mary F. Parker, CMC, City Clerk
S. James Sikkema



CITY OF ROANOKE
OFFICE OF THE CITY MANAGER

Noel C. Taylor Municipal Building
215 Church Avenue, S.W., Room 364
Roanoke, Virginia 24011-1591
Telephone: (540) 853-2333
Fax: (540) 853-1138
CityWeb: www.roanokegov.com

December 15, 2003

The Honorable Mayor and Members
of City Council
Roanoke, Virginia

Dear Mayor and Members of Council:

I would like to sponsor a request from David L. Kjolhede, Executive Director of the Roanoke Valley Visitors and Convention Bureau, to brief City Council on the Convention Bureau's year-end review at the regular meeting of City Council on Monday, December 15, 2003.

Sincerely,

A handwritten signature in cursive script, reading "Darlene L. Burcham".

Darlene L. Burcham
City Manager

DLB:snh

c: City Attorney
Director of Finance
City Clerk



CITY OF ROANOKE OFFICE OF THE CITY MANAGER

Noel C. Taylor Municipal Building
215 Church Avenue, S.W., Room 364
Roanoke, Virginia 24011-1591
Telephone: (540) 853-2333
Fax: (540) 853-1138
CityWeb: www.roanokegov.com

December 15, 2003

Honorable Ralph K. Smith, Mayor
Honorable C. Nelson Harris, Vice Mayor
Honorable William D. Bestpitch, Council Member
Honorable M. Rupert Cutler, Council Member
Honorable Alfred T. Dowe, Jr., Council Member
Honorable Beverly T. Fitzpatrick, Jr., Council Member
Honorable Linda F. Wyatt, Council Member

Dear Mayor Smith and Members of City Council:

Subject: Acceptance of The
Federal Emergency
Management Agency and
Virginia Department of
Emergency Management
funds for Disaster
Assistance

Background:

On February 24, 2003, the City Manager declared an emergency to exist in the City of Roanoke as a result of flooding. City Council followed in confirming the declaration and called upon the State and Federal government for assistance on March 3, 2003.

The Federal Emergency Management Agency (FEMA) has approved the City of Roanoke for disaster assistance for costs incurred following the flooding. The total amount of the disaster assistance to be provided is \$137,005. FEMA has released \$137,005.

Considerations:

The disaster assistance funding from the Federal Emergency Management Agency and Virginia Department of Emergency Management must be accepted

and funding appropriated. With the exception of residual expenses associated with contracted services and the replacement of equipment at Victory Stadium, the reimbursement is for expenses incurred during Fiscal Year 2002-03.

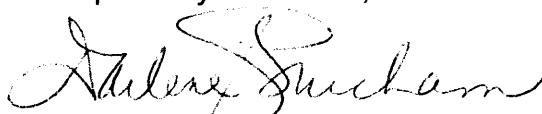
Recommended Action (s):

Authorize the City Manager to execute and attest, respectively, on behalf of the City of Roanoke, any documentation required in connection with obtaining and accepting the above allocation in the amount indicated and to furnish such additional information and take such additional action as may be needed to implement and administer such funds and agreements, such documents to be approved as to form by the City Attorney

Establish a revenue estimate of \$113,552 in the General Fund and \$23,453 in the Civic Facilities Fund. Appropriate \$137,005 to the following expenditure accounts:

<u>Department</u>	<u>Account</u>	<u>Dollar Amount</u>
Contingency-General Fund	001-300-9410-2199	\$105,776
Parks	001-620-4340-3011	7,776
Civic Facilities Fund-Victory Stadium	005-550-7410-2010	23,453

Respectfully submitted,



Darlene L. Burcham
City Manager

DLB:abh

c: Mary F. Parker, City Clerk
William M. Hackworth, City Attorney
Jesse A. Hall, Director of Finance
Sherman Stovall, Acting, Director of Management and Budget
Paul Truntich, Administrator, Environmental and Emergency Management

CM03-00238

IN THE COUNCIL OF THE CITY OF ROANOKE, VIRGINIA

AN ORDINANCE appropriating funds to cover costs incurred as a result of flood damages and establishing a revenue estimate for federal reimbursements, amending and reordaining certain sections of the 2003-2004 General and Civic Facilities Funds Appropriations, and dispensing with the second reading by title of this ordinance.

BE IT ORDAINED by the Council of the City of Roanoke that the following sections of the 2003-2004 General and Civic Facilities Funds Appropriations be, and the same are hereby, amended and reordained to read and provide as follows:

General Fund

Appropriations		
Contingency	001-300-9410-2199	\$ 105,776
Construction & Development Supplies	001-620-4340-3011	7,776
Revenues		
Flood Damage Reimbursements	001-110-1234-0707	113,552

Civic Facilities Fund

Appropriations		
Fees for Professional Services	005-550-7410-2010	23,453
Revenues		
Flood Damage Reimbursements	005-110-1234-0707	23,453

Pursuant to the provisions of Section 12 of the City Charter, the second reading of this ordinance by title is hereby dispensed with.

ATTEST:

City Clerk.

IN THE COUNCIL OF THE CITY OF ROANOKE, VIRGINIA,

A RESOLUTION authorizing the acceptance of a grant of funds from the Federal Emergency Management Agency (FEMA) and the Virginia Department of Emergency Management, in connection with the flood emergency of February, 2003; and authorizing execution of any required documentation on behalf of the City.

BE IT RESOLVED by the Council of the City of Roanoke as follows:

1. The City Manager is hereby authorized on behalf of the City to accept from the Federal Emergency Management Agency and the Virginia Department of Emergency Management a grant in the amount of \$137,005, such grant being more particularly described in the letter of the City Manager, dated December 15, 2003, upon all terms, provisions and conditions relating to the receipt of such funds.

2. The City Manager is hereby authorized to execute, on behalf of the City, any documentation required in connection with the acceptance of such grant and to furnish such additional information as may be required by the Federal Emergency Management Agency.

ATTEST:

City Clerk



CITY OF ROANOKE OFFICE OF THE CITY MANAGER

Noel C. Taylor Municipal Building
215 Church Avenue, S.W., Room 364
Roanoke, Virginia 24011-1591
Telephone: (540) 853-2333
Fax: (540) 853-1138
CityWeb: www.roanokegov.com

December 15, 2003

Honorable Ralph K. Smith, Mayor
Honorable C. Nelson Harris, Vice Mayor
Honorable William D. Bestpitch, Council Member
Honorable M. Rupert Cutler, Council Member
Honorable Alfred T. Dowe, Jr., Council Member
Honorable Beverly T. Fitzpatrick, Jr., Council Member
Honorable Linda F. Wyatt, Council Member

Dear Mayor Smith and Members of City Council:

Subject: Boxley Materials Company
Performance Agreement

Boxley Materials Company (Boxley) has purchased land in the city on which to build a cement plant. In order to have access to the property, it is necessary for Boxley to build a road to City and VDOT standards at a total cost of \$308,000. This road will also open other property in the City for development.


Boxley has agreed to invest \$2.5 million in the land, facility, equipment, and road plus create nine jobs. The City will appropriate up to, but not to exceed, \$154,000 to the Industrial Development Authority of the City of Roanoke, Virginia (IDA), which in turn will provide an economic development grant to the Boxley Materials Company upon certain terms and conditions as substantially set forth in the attached Performance Agreement (attached hereto). This grant will be made after the Boxley Materials Company cement plant has been completed, is operational, and has paid all City taxes due in the first year. After that time, the IDA will provide the grant funds over a period of five years, to January 31, 2009. Each grant request can be up to, but cannot exceed, an amount equal to 50% of the amount of the increased real estate taxes paid by Boxley or others to the City for such taxes on real property represented by Tax Map Nos. 5220603, 5220607, and 5220608 for the year in question. The amount of increased real estate taxes means the difference between the amount of \$2,585.77, which is the current amount of real estate taxes for the above three Tax Map Nos., and the amount of real estate taxes actually paid by Boxley or others in that particular year.

Funding for the grant requests will be adopted annually during the budget process as appropriate based on the activities undertaken as described above.

Recommended Action(s):

- Approve the terms of the Performance Agreement among the City of Roanoke, the IDA, and Boxley Materials Company to provide for a grant up to \$154,000 as set forth in the above Performance Agreement.
- Authorize the City Manager to execute a Performance Agreement among the City, the Boxley Materials Company, and the IDA, substantially similar to the one attached hereto, and to execute such other documents and take such further action as may be necessary to implement the Performance Agreement, with the form of such agreement to be approved as to form by the City Attorney.

Respectfully submitted,



Darlene L. Burcham
City Manager

DLB/LB

Attachment

c: Mary F. Parker, City Clerk
William M. Hackworth, City Attorney
Jesse A. Hall, Director of Finance
Elizabeth Neu, Director of Economic Development
Susan Lower, Acting Director of Real Estate Evaluation
Harwell M. Darby, Jr.

CM03-00239

PERFORMANCE AGREEMENT

This Performance Agreement (Agreement) is dated _____, 2003, by and among the City of Roanoke, Virginia, a municipal corporation (City), Boxley Materials Company, a Virginia corporation (Boxley) and the Industrial Development Authority of the City of Roanoke, Virginia, an industrial development authority organized and existing under the laws of the Commonwealth of Virginia (IDA).

WITNESSETH

WHEREAS, Boxley has purchased property in the Blue Ridge Industrial Park in the City of Roanoke, Tax Map Nos. 5220607 and 5220608, on which Boxley is constructing a cement facility (Facility);

WHEREAS, a private road extension of Blue Ridge Drive (Road Extension) is needed to provide better access to the Facility and to another parcel of property next to the Facility;

WHEREAS, Boxley is constructing such Road Extension and upon completion will dedicate such extension to the City, subject to the City's acceptance of the same;

WHEREAS, Boxley has indicated such Road Extension will allow for a significant investment to be made in the Facility and the creation of certain jobs at the Facility;

WHEREAS, Boxley has requested an economic development grant through the IDA to assist in the cost of the Road Extension;

WHEREAS, the City will appropriate the funds for the IDA for the purposes of promoting economic development within the City;

WHEREAS, the IDA, based on the undertakings of Boxley, has determined to make an economic development grant to Boxley with funds to be provided to the IDA by the City in accordance with the terms of this Agreement; and

WHEREAS, the parties wish to reduce to writing the understanding of the parties concerning this matter.

NOW, THEREFORE, the parties, in consideration of the promises and obligations contained herein, mutually agree as follows:

Section 1. Appropriation Amount.

Subject to the terms of this Agreement, the City will appropriate and pay an amount up to, but not to exceed, \$154,000.00 to the IDA for the purposes of promoting economic development in the City in

order to fund the economic development grant the IDA intends to make to Boxley as set forth in this Agreement.

Section 2. IDA Economic Development Grant.

The IDA will make an economic development grant to Boxley of up to, but not to exceed, \$154,000.00 in order to provide assistance for the Road Extension, all in accordance with the terms of this Agreement. The IDA's obligations hereunder are not general obligations of the IDA, but are special obligations of the IDA limited to those funds which are provided hereunder by the City and received by the IDA.

Section 3. Obligations of Boxley.

Boxley agrees and promises that in order to qualify to receive the economic development grant from the IDA, Boxley will do each of the following:

- A. Complete construction of a Road Extension on or before December 31, 2003, and ensure that such Road Extension meets the applicable standards and requirements of the City and complete dedication of such Road Extension to the City by January 31, 2004, subject to the City's acceptance of such Road Extension.
- B. Provide a performance security in a form acceptable to the City and the IDA to guarantee the proper construction of and workmanship on the Road Extension for a period of one year from the date of acceptance of such Road Extension by the City.
- C. Partial construction of the Facility has occurred and the Facility was placed into operation on or about July 1, 2003. However, Boxley will complete construction of the Facility and will have made an investment in the Facility in land, building, and equipment of a least \$2.5 million on or before July 1, 2004.
- D. It will create and fill at least 9 new full-time job positions within 12 months of the Facility's start up, but in no event later than July 1, 2004, and will maintain them during all periods of time for which grant funds are requested.
- E. It will operate the Facility in substantially full operation during all periods of time for which grant funds are requested and as set forth in Section 5.
- F. It will file all appropriate and applicable real estate tax, personal property tax, machine and tool tax, and other tax forms or notices with the City, ensure that it has received assessments from the City for such taxes, and it will have paid such taxes to the City and not claim any exemptions from real estate taxes, personal property taxes, or machine and tool taxes for any periods of time for which grant funds are requested and as set forth in Section 5.

- G. Boxley will provide the IDA and the City with sufficient documentation as to the total cost that Boxley actually expended on the Road Extension to establish that such cost was at least \$308,000.00.

Section 4. Distribution of Grant Funds.

Subject to the payment schedule and amount set forth in Section 5, upon compliance with the obligations set forth in Section 3 above, Boxley may request in writing the IDA to obtain and provide the economic grant funds mentioned above in accordance with the schedule set forth in Section 5. Such request must be accompanied by sufficient documentation to establish to the reasonable satisfaction of the IDA and the City compliance with the obligations set forth in Section 3. Upon receipt of such request, and approval by the IDA (approved request), the IDA will forward the approved request to the City Manager and Director of Economic Development. The written grant request(s) from Boxley to the IDA will be on a form approved by the IDA's counsel, such approval not to be unreasonably withheld. The IDA may disapprove any request that does not comply with the terms of this Agreement or require that a revised request be submitted, such approval not to be unreasonably withheld. After the IDA approves a request, the IDA will make a written request to the City for the distribution to the IDA of the City's appropriation of such funds. The City will process such approved request within 30 days of receipt thereof. Subject to Section 5, the IDA will make any approved payments to Boxley within 10 working days from the date of receipt of the funds from the City; provided, however, that the IDA has no liability in the event the City delays processing the IDA's requisition.

Section 5. Payment Schedule and Amount of Grant Funds.

Upon compliance with the terms of this Agreement, approved grant funds received by the IDA will be paid by the IDA to Boxley subject to the following:

- A. All such grant funds must be made no later than January 31, 2009. No request will be considered and no payments will be made for any request received by the IDA after that date.
- B. Each grant request can only be made after Boxley has paid to the City the applicable City real estate taxes for the year for which the grant request is made.
- C. The amount of each grant request can be up to, but cannot exceed, an amount equal to 50% of the amount of the increased real estate taxes paid by Boxley or others to the City for such taxes on real property represented by Tax Map Nos. 5220603, 5220607, and 5220608 for the year in question. For the purpose of this Agreement, the amount of increased real estate taxes means the difference between the amount of \$2,585.77 (which is the current amount of real estate taxes for the above 3 Tax Map numbers) and the amount of real estate taxes actually paid by Boxley or others as set forth above for the particular year during which the grant request is made.

- D. In no event will the total amount of all grant requests exceed the total amount of \$154,000.00.

Section 6. Payment of IDA's Fees.

Boxley will pay the reasonable costs and expenses of the IDA in connection with this matter, including the reasonable fees of IDA's counsel, and Boxley agrees that Boxley's payment will not be paid from the grant funds. The IDA will submit itemized statements to Boxley for such costs and expenses.

Section 7. Reports to the City.

Boxley will keep the City, through the City's Economic Development Director, reasonably advised of the progress of the Facility and job creation and Road Extension during the term of this Agreement and submit written reports to the City and IDA upon request.

Section 8. Compliance with Laws.

Boxley agrees, in undertaking and completing the Facility and Road Extension, to comply with all applicable federal, state and local laws, rules and regulations.

Section 9. Cooperation.

Each party agrees to cooperate with the other in executing any documents, if any, which may be necessary to carry out the intent and purpose of this Agreement.

Section 10. Severability.

If any term of this Agreement is found to be void or invalid, such invalidity shall not affect the remaining terms of this Agreement, which will continue in full force and effect. The parties intend that the remaining provisions of this Agreement be enforced to the fullest extent permitted by applicable law.

Section 11. Authority to Sign.

The persons who have executed this Agreement on behalf of the parties represent and warrant that they are duly authorized to execute this Agreement in their representative capacities as indicated, and upon such execution, this Agreement will be the binding obligation of each party, enforceable in accordance with its terms.

Section 12. Counterpart Copies.

This Agreement may be executed in any number of counterpart copies, each of which shall be deemed an original, but all of which together shall constitute a single instrument.

Section 13. Successors.

The terms, conditions, provisions and undertakings of this Agreement shall be binding upon and inure to the benefit of each of the parties hereto and their respective successors and assigns.

Section 14. Nondiscrimination.

- A. During the performance of this Agreement, and relating only to the Facility and not to any other facility owned or operated by Boxley, Boxley agrees as follows:
- i. Boxley will not discriminate against any employee or applicant for employment because of race, religion, color, sex, national origin, age, disability, or any other basis prohibited by state law relating to discrimination in employment, except where there is a bona fide occupational qualification reasonably necessary to the normal operation of Boxley. Boxley agrees to post in conspicuous places at the Facility, available to employees and applicants for employment at the Facility, notices setting forth the provisions of this nondiscrimination clause.
 - ii. Boxley in all solicitations or advertisements for employees at the Facility placed by or on behalf of Boxley will state that Boxley is an equal opportunity employer.
 - iii. Notices, advertisements and solicitations placed in accordance with federal law, rule or regulation shall be deemed sufficient for the purpose of meeting the requirements of this section.
- B. Boxley will include the provisions of the foregoing Section A (i, ii, and iii) in every subcontract or purchase order of over \$10,000 originating from the Facility, so that the provisions will be binding upon each subcontractor or vendor.

Section 15. Assignment.

Boxley agrees not to assign or transfer any part of this Agreement without the prior written consent of the City and the IDA, which will not be unreasonably withheld, and any such assignment shall not relieve Boxley from any of its obligations under this Agreement.

Section 16. Forum Selection and Choice of Law.

By virtue of entering into this Agreement, Boxley agrees and submits itself to a court of competent jurisdiction in the City of Roanoke, Virginia, and further agrees that this Agreement is controlled by

C:\DOCUME~1\cmsm1.000\LOCALS~1\Temp\c.lotus.notes.data\boxley performance agmt.doc

the laws of the Commonwealth of Virginia, with the exception of Virginia's choice of laws provisions which shall not apply; and that all claims, disputes and other matters shall be decided only by such court according to the laws of the Commonwealth of Virginia as aforesaid.

Section 17. Non-Waiver.

Each party agrees that any party's waiver or failure to enforce or require performance of any term or condition of this Agreement or any party's waiver of any particular breach of this Agreement by any other party extends to that instance only. Such waiver or failure is not and shall not be a waiver of any of the terms or conditions of this Agreement or a waiver of any other breaches of the Agreement by any party and does not bar the nondefaulting party from requiring the defaulting party to comply with all the terms and conditions of this Agreement and does not bar the nondefaulting party from asserting any and all rights and/or remedies it has or might have against the defaulting party under this Agreement or at law.

Section 18. Captions and Headings.

The section captions and headings are for convenience and reference purposes and shall not affect in any way the meaning or interpretation of this Agreement.

Section 19. Easements.

Boxley promises and agrees to grant and dedicate to the City all necessary easements on Boxley's property for the construction of infrastructure improvements benefiting the Road Extension or surrounding areas including, but not limited to, storm drainage, sanitary sewers, and/or water, all at no cost to the City.

Section 20. Appropriation of Funds.

The obligations the City will undertake in connection with this Agreement are subject to the availability of funds and the appropriation by City Council of such funds as may be necessary for such obligations.

Section 21. Notices

All notices hereunder must be in writing and shall be deemed validly given if sent by certified mail, return receipt requested or by a nationally recognized overnight courier, addressed as follows (or any other address that the party to be notified may have designated to the sender by like notice):

If to City, to:

City of Roanoke
City Manager
364 Municipal Building
215 Church Avenue SW
Roanoke, Virginia 24011

C:\DOCUME~1\cmsm1.000\LOCALS~1\Temp\c.lotus.notes.data\boxley performance agmt.doc

Fax No. 540-853-1138

With a copy to:

Director of Economic Development
111 Franklin Plaza, Suite 200
Roanoke, VA 24011
Fax No. 540-853-1213

If to Boxley, to:

Mr. Larry Bullock
Vice-President – Concrete Division
P.O. Box 13527
Roanoke, VA 24035-3527
Fax No. 540-777-2065

Notice shall be deemed delivered upon the date of personal service, two days after deposit in the United States mail, or the day after delivery to a nationally recognized overnight courier.

Section 22. Entire Agreement.

This Agreement constitutes the entire agreement of the parties and supersedes all prior agreements between the parties. No amendment to this Agreement shall be valid unless made in writing and signed by the appropriate parties.

IN WITNESS WHEREOF, the parties have executed this Agreement by their authorized representatives.

ATTEST:

CITY OF ROANOKE

City Clerk

By: _____
Darlene L. Burcham, City Manager

(SEAL)

WITNESS:

BOXLEY MATERIALS COMPANY

By: _____

Printed Name and Title

Printed Name and Title

(SEAL)

WITNESS:

INDUSTRIAL DEVELOPMENT AUTHORITY
OF THE CITY OF ROANOKE, VIRGINIA

_____, Secretary

By _____
_____, Chairman

Approved as to Form:

Approved as to Execution:

City Attorney

City Attorney

Appropriation and Funds Required for
this Contract are subject to future
appropriation:

Director of Finance

Date Acct. #

DRAFT

Grant Request

This Grant Request is submitted pursuant to that Performance Agreement dated _____, 2003, by and among, the City of Roanoke, Virginia, a municipal corporation (the "City"), Boxley Materials Company, a Virginia corporation ("Boxley") and the Industrial Development Authority of the City of Roanoke, Virginia, an industrial development authority organized and existing under the laws of the Commonwealth of Virginia (the "IDA").

The Performance Agreement provides that Boxley may draw as an economic grant from the IDA such funds as are provided to the IDA by the City in an amount not to exceed a total of \$154,000 so long as such grants are requested no later than January 31, 2009.

The amount of the real estate taxes levied on the real property on which the Facility is located and on Tax Parcel Number 5220603 immediately before the Facility was constructed were \$2,585.77 (2003 assessment).

The amount of each grant request cannot exceed an amount equal to 50% of the amount of the increased real estate taxes paid by Boxley or others to the City for the year in question as set forth in the Performance Agreement.

The year in question is 2004; the increase in the taxes for the year is _____; on _____ Boxley paid real estate taxes in the amount of _____ and is entitled to an Economic Grant in the amount of _____.

Boxley warrants that it has complied with all of the terms and conditions of the Performance Agreement, including but not limited to the follows:

1. Boxley completed construction of the Road Extension on or before December 31, 2003.
2. Boxley insured that the Road Extension met the applicable standards and requirements of the City.
3. Boxley completed dedication of the Road Extension to the City on or before January 31, 2004.
4. Boxley provided performance security in a form acceptable to the City.
5. Boxley made an investment in the actual construction of the Facility (including the cost of the real property, the road, plant, building and equipment) of at least \$2.5 million on or before July 1, 2004.

6. Boxley created and has filled at least 9 (nine) new full time positions on or before July 1, 2004.

7. Boxley expects to maintain these positions during all periods for which the grant funds are requested.

8. Boxley has operated the facility in substantially full operation during all periods of time for which grant funds are requested.

9. Boxley has filed all appropriate taxes, has paid taxes due and has not requested exemptions.

10. Boxley has expended at least \$308,000 on the Road Extension and submits with this Grant Request (or has submitted with a prior Grant Request) sufficient documentation as to the total cost of the Road Extension.

Amounts previously paid in Economic Grants total \$_____. The amount of this Grant Request is \$_____. The total remaining amount to be requested by future Grant Requests is \$_____.

We respectfully request that the IDA process this Grant Request through the City and by sending copies to the City Manager and the Director of Economic Development at their addresses shown in Section 21 of the Performance Agreement in accordance with Section 4 Distribution of Grant Funds.

BOXLEY MATERIALS COMPANY

By: _____

IN THE COUNCIL OF THE CITY OF ROANOKE, VIRGINIA

AN ORDINANCE authorizing the proper City officials to execute a Performance Agreement among the City of Roanoke (City), the Industrial Development Authority of the City of Roanoke, Virginia, (IDA), and Boxley Materials Company (Boxley) that provides for certain undertakings by the parties in connection with a road extension of Blue Ridge Drive located in the Blue Ridge Industrial Park in the City of Roanoke; and dispensing with the second reading by title of this Ordinance.

WHEREAS, Boxley has purchased land in the City on which to build a cement facility and has agreed to construct a road extension for such facility and dedicate such road extension to the City;

WHEREAS, Boxley has requested an economic development grant through the IDA to assist with the cost of such road extension; and

WHEREAS, the City and the IDA wish to encourage Boxley in connection with the construction of the cement facility and the road extension in order to enhance and promote economic development within the City and the Roanoke Valley.

THEREFORE, BE IT ORDAINED by the Council of the City of Roanoke as follows:

1. City Council hereby approves the substance of the Performance Agreement among the City, the IDA, and Boxley as set forth in the attachment to the City Manager's letter to Council dated December 15, 2003, which provides for certain undertakings and obligations by Boxley, as well as certain obligations by the City.

2. The City Manager and the City Clerk are authorized on behalf of the City to

execute and attest, respectively, a Performance Agreement among the City, the IDA, and Boxley, upon certain terms and conditions as set forth in the City Manager's letter to Council dated December 15, 2003. The Performance Agreement shall be substantially similar to the one attached to such letter and in a form approved by the City Attorney.

3. The City Manager is further authorized to take such actions and execute such documents as may be necessary to provide for the implementation and administration of such Performance Agreement.

4. Pursuant to the provisions of §12 of the City Charter, the second reading of this Ordinance by title is hereby dispensed with.

ATTEST:

City Clerk



CITY OF ROANOKE OFFICE OF THE CITY MANAGER

Noel C. Taylor Municipal Building
215 Church Avenue, S.W., Room 364

Roanoke, Virginia 24011-1591

Telephone: (540) 853-2333

Fax: (540) 853-1138

CityWeb: www.roanokegov.com

December 15, 2003

Honorable Ralph K. Smith, Mayor
Honorable C. Nelson Harris, Vice Mayor
Honorable William D. Bestpitch, Council Member
Honorable Beverly T. Fitzpatrick, Jr., Council Member
Honorable M. Rupert Cutler, Council Member
Honorable Alfred T. Dowe, Jr., Council Member
Honorable Linda F. Wyatt, Council Member

Dear Mayor Smith and Members of City Council:

Subject: Amendment No.2 to the
Management and Operation Services
Contract between the City of Roanoke
and Lancor Parking, L.L.C., regarding
the provision of a Performance Bond

Background:

On July 1, 2002, City Council accepted the proposal of Lancor Parking, L.L.C. to provide management and operation services for certain City owned and/or controlled parking facilities. As part of the contract requirements, Lancor was required to provide the City with a performance bond equal to the total management fee for the three year term of the contract in order to guarantee the company's performance of the terms and conditions of the contract. Due to changes in the bond market, Lancor requested that they be permitted to meet this performance bond requirement by providing the City with a bond in the amount of the then current year's management fee. The bond would then subsequently be renewed each year over the life of the contract in an amount equal to the then current year's management fee. Amendment No.2, as contained in Attachment A to this report, provides for a change to Section 2(L) of the contract to reflect the above change to the bond requirement.

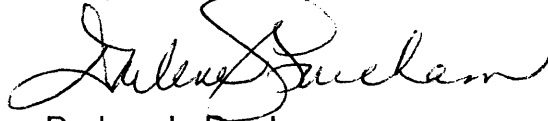
Considerations:

The alternate bond procedure will provide the City with more than adequate protections should the City have a need to call on the bond.

Recommended Action:

City Council authorize the City Manager to execute an Amendment, in a form approved by the City Attorney, to the contract between the City of Roanoke and Lancor Parking, L.L.C. ,dated July 1, 2002, to provide management and operation services for certain city owned and/or controlled parking facilities substantially similar to Amendment No. 2 in Attachment A to this letter modifying the performance bond requirement of the contract.

Respectfully submitted,

A handwritten signature in black ink, appearing to read "Darlene L. Burcham", written over a horizontal line.

Darlene L. Burcham
City Manager

DLB:djm

c: Mary F. Parker, City Clerk
William M. Hackworth, City Attorney
Jesse A. Hall, Director of Finance
Elizabeth Neu, Director, Economic Development

CM03-00237

**AMENDMENT NO. 2 TO
CONTRACT FOR MANAGEMENT AND OPERATION SERVICES
FOR THE CITY OF ROANOKE OWNED AND/OR CONTROLLED PARKING
GARAGES AND SURFACE PARKING LOTS**

This Amendment No. 2 to Contract for Management and Operation Services for the City of Roanoke owned and/or controlled Parking Garages and Surface Parking Lots (Amendment No. 2) is dated December ____, 2003, by and between the CITY OF ROANOKE, Virginia, (City), and LANCOR Parking, L.L.C., (Operator).

WITNESSETH:

WHEREAS, the City and Operator entered into a Contract dated July 1, 2002, that provided for the Operator to provide management and operating services for certain City owned and/or controlled Parking Facilities in Roanoke, Virginia (Contract); and

WHEREAS, the City and Operator amended the Contract by Amendment No. 1 dated October 21, 2002, regarding the addition of Parking Facilities; and

WHEREAS, the City and Operator have agreed to modify the amount of the performance bond provided for in the Contract.

NOW, THEREFORE, in consideration of the promises and the covenants contained herein and in the original Contract and Amendment No. 1, the City and Operator hereby agree as follows:

SECTION 1. Modification of Amount of Performance Bond Required.

Section 2(L) of the Contract is hereby amended by deleting it and replacing it with the following language:

- L. The Operator agrees to present to the City, and keep in force during the term of the Contract, a Performance Bond or Security, in a form acceptable to the City, equal to the amount of Management Fees for the then current year of this Contract to guarantee the Operator's performance of the terms and conditions of this Contract, and this includes any extensions.

SECTION 2. Continuation of Terms and Conditions of Contract.

All the terms and conditions of the Contract between the parties dated July 1, 2002, and Amendment No. 1, dated October 21, 2002, shall continue in full force and effect except as modified above.

IN WITNESS WHEREOF, the parties have signed this Amendment No. 2 by their authorized representatives.

ATTEST:

CITY OF ROANOKE

Mary Parker, City Clerk

By: _____
Darlene L. Burcham, City Manager

ATTEST OR WITNESS:

LANCOR Parking, L.L.C.

By: _____

By: _____

Printed Name and Title

Printed Name and Title

Approved as to Form:

Approved as to Execution:

Appropriation and Funds Required:
For this Contract:

Authorizing Measure No. _____

Director of Finance

Date

Acct. #

IN THE COUNCIL OF THE CITY OF ROANOKE, VIRGINIA

AN ORDINANCE authorizing an Amendment to the Contract for Management and Operation Services between the City of Roanoke and Lancor Parking, L.L.C., dated July 1, 2002, regarding a modification of such Contract; and dispensing with the second reading by title of this ordinance.

WHEREAS, the City entered into a Contract dated July 1, 2002, (Contract) with Lancor Parking, L.L.C., (Lancor) for management and operation services of certain City owned or controlled parking garages and surface parking lots (Parking Facilities), authorized by Ordinance No. 35966-070102; and

WHEREAS, the City and Lancor amended the Contract by Amendment No. 1 dated October 21, 2002, (Amendment No. 1), authorized by Ordinance No. 36093-101502; and

WHEREAS, the City and Lancor have agreed to modify Section 2(L) of the Contract relating to the performance bond requirement, as recommended by City staff.

THEREFORE, BE IT ORDAINED by the Council of the City of Roanoke as follows:

1. City Council, in accordance with the City Manager's letter to Council dated December 15, 2003, hereby approves amending the Contract for Management and Operation Services between the City and Lancor dated July 1, 2002, involving the performance bond requirement as set forth in such letter.

2. The City Manager and the City Clerk are hereby authorized to execute and attest, respectively, the requisite Contract Amendment No. 2 with Lancor, such Amendment to be substantially similar to the one attached to the above mentioned letter, and in a form approved by the City Attorney,

and to take such further action and to execute such further documents as may be necessary to implement and administer such Amendment No. 2.

3. Pursuant to the provisions of Section 12 of the City Charter, the second reading of this ordinance by title is hereby dispensed with.

ATTEST:

City Clerk.



CITY OF ROANOKE OFFICE OF THE CITY MANAGER

Noel C. Taylor Municipal Building
215 Church Avenue, S.W., Room 364
Roanoke, Virginia 24011-1591

Telephone: (540) 853-2333

Fax: (540) 853-1138

CityWeb: www.roanokegov.com

December 15, 2003

The Honorable Ralph K. Smith, Mayor
The Honorable Nelson Harris, Vice-Mayor
The Honorable William Bestpitch, Council Member
The Honorable Rupert Cutler, Council Member
The Honorable Alfred Dowe, Council Member
The Honorable Beverly Fitzpatrick, Jr., Council Member
The Honorable Linda Wyatt, Council Member

Dear Mayor Smith and Members of City Council:

Subject: Division 5A of Article II of Chapter
32, "Taxation," of the City Code
Revision and Extension for
Enterprise Zone Two Incentive

Background:

The City of Roanoke has two Enterprise Zone designations. Under Division 5A of Article II of Chapter 32, "Taxation," of the City Code, the application deadline for applying for the Enterprise Partial Tax Exemption incentive is December 31, 2003, for both Enterprise Zone One and Enterprise Zone Two. The designation for Enterprise Zone One also expires December 31, 2003, but the designation of Enterprise Zone Two does not expire until December 31, 2015. Accordingly, the appropriate sections of Division 5A need to be amended to reflect these changes.

Considerations:

The City of Roanoke must continue to offer the incentives for Enterprise Zone Two previously approved by the Department of Housing and Community Development, or the City risks losing its Enterprise Zone designation.

Recommended Action:

Adopt amendments to Division 5A of Article II of Chapter 32, "Taxation" of the City Code (§32-101.5) to extend the date applications must be filed for Enterprise Zone Two until December 31, 2015; adopt amendments to Division 5A of Article II of Chapter 32,

Honorable Mayor and Members of Council
December 15, 2003
Page 2

"Taxation" of the City Code (§32-101.1, §32-101.3, §32-101.5) to delete all references to the expiring Enterprise Zone One as of January 1, 2004.

Respectfully submitted,

A handwritten signature in black ink, appearing to read "Darlene L. Burcham". The signature is fluid and cursive, with the first name "Darlene" being more prominent than the last name "Burcham".

Darlene L. Burcham
City Manager

DLB/sem

c: Mary F. Parker, City Clerk
William M. Hackworth, City Attorney
Jesse A. Hall, Director of Finance
Elizabeth A. Neu, Director of Economic Development
Sherman Holland, Commissioner of the Revenue
Susan Lower, Acting Director of Real Estate Valuation

CM03-0233

IN THE COUNCIL OF THE CITY OF ROANOKE, VIRGINIA,

AN ORDINANCE amending and reordaining Article II, Real Estate Taxes Generally, Chapter 32, Taxation, of the Code of the City of Roanoke (1979), as amended, by amending §32-101.1, Generally, §32-101.3, Eligibility of commercial or industrial real property, and §32-101.5, Application, of Division 5A, Exemption of Certain Rehabilitated or Renovated Commercial or Industrial Real Property Located in Either Enterprise Zone One or Enterprise Zone Two, for the purpose of eliminating Enterprise Zone One and extending the application time period for Enterprise Zone Two; providing for an effective date; and dispensing with the second reading by title of this ordinance.

BE IT ORDAINED by the Council of the City of Roanoke as follows:

1. Division 5A, Exemption of Certain Rehabilitated or Renovated Commercial or Industrial Real Property Located in Either Enterprise Zone One or Enterprise Zone Two, of Article II, Real Estate Taxes Generally, of Chapter 32, Taxation, of the Code of the City of Roanoke (1979), as amended, is hereby amended and reordained to read and provide as follows:

**DIVISION 5A. EXEMPTION OF CERTAIN REHABILITATED OR
RENOVATED COMMERCIAL OR INDUSTRIAL REAL PROPERTY
LOCATED IN ENTERPRISE ZONE TWO**

§32-101.1. Generally.

The director of real estate valuation shall, upon application made and within the limits hereinafter provided, order exemption of real property tax on real property substantially rehabilitated or renovated for commercial or industrial use and located within the area of ~~either enterprise zone one or enterprise zone two~~, as

such area is shown on a map of ~~enterprise zone one or~~ enterprise zone two, which ~~maps are~~ *map is* on file in the office of the city clerk.

* * *

§32-101.3. Eligibility of commercial or industrial real property.

(a) In order to qualify for the exemption from real property taxation for real property substantially rehabilitated or renovated for commercial or industrial use within ~~either enterprise zone one or~~ enterprise zone two, a structure shall meet all of the following criteria:

- (1) Be no less than fifteen (15) years of age and located within ~~either enterprise zone one or~~ enterprise zone two.
- (2) Be rehabilitated or renovated so as to increase the assessed value of the structure by at least fifty thousand dollars (\$50,000.00) or more;
- (3) Be designed for and suitable for commercial or industrial use after completion of such rehabilitation or renovation;
- (4) The structure has not received an exemption under Division 5, exemption of certain rehabilitated real property, of this chapter; and
- (5) The rehabilitation or renovation must be completed within one (1) year after the date of the filing of the application for exemption.

(b) The types of substantial rehabilitation or renovation improvements that will be considered as increasing the assessed value are limited to those made to the actual qualifying structure only. Other improvements, fees, or costs will not be considered.

(c) Any new additions to the qualifying structure or any additional square footage over the prerehabilitation or prerenovation square footage will not be considered as increasing the assessed value of the qualifying structure or eligible for or considered for the tax exemption since the purpose of this incentive is to encourage rehabilitation or renovation of existing structures.

* * *

§32-101.5. Application.

(a) Application for exemption of substantially rehabilitated or renovated real property from taxation under this division shall be filed by the owner of such property with the director of real estate valuation prior to commencement of any rehabilitation or renovation work for which exemption is sought. Each application for such exemption shall be accompanied by a processing fee in the amount of fifty dollars (\$50.00). No property shall be eligible for such exemption unless all appropriate building permits have been acquired and the director of real estate valuation has verified that the rehabilitation or renovation indicated on the application has been completed. Furthermore, no property shall be eligible for such exemption if the director of real estate valuation has been denied access to the entire premises, either before or after the rehabilitation or renovation work for which the exemption has been sought, for purposes of determining whether the required rehabilitation or renovation has been completed and for appraising the property. The application for this exemption must be filed with the director of real estate valuation during the period of July 1, 1996, through December 31, 2003 ~~2015~~, for property located within enterprise zone two ~~and during the period of July 19, 1999, through December 31, 2003, for property located within enterprise zone one~~, in order to be eligible for this exemption.

(b) The burden of proof shall be on the applicant to show that the structure for which the exemption has been filed complies with all the eligibility criteria established by this division. The director of real estate valuation may require documentary proof of eligibility and, in such cases, documentation satisfactory to the director of real estate valuation shall be presented by the applicant.

* * *

2. This ordinance shall be in full force and effect as of January 1, 2004.

3. Pursuant to Section 12, Roanoke City Charter, the second reading by title of this ordinance is hereby dispensed with.

ATTEST:

City Clerk.



CITY OF ROANOKE
OFFICE OF THE CITY MANAGER

Noel C. Taylor Municipal Building
215 Church Avenue, S.W., Room 364
Roanoke, Virginia 24011-1591
Telephone: (540) 853-2333
Fax: (540) 853-1138
CityWeb: www.roanokegov.com

December 15, 2003

Honorable Ralph K. Smith, Mayor
Honorable C. Nelson Harris, Vice Mayor
Honorable William D. Bestpitch, Council Member
Honorable M. Rupert Cutler, Council Member
Honorable Alfred T. Dowe, Jr., Council Member
Honorable Beverly T. Fitzpatrick, Jr., Vice Mayor
Honorable Linda F. Wyatt, Council Member

Dear Mayor Smith and Members of City Council:

Subject: Vehicle Donation to TAP

Background:

Authority for the process of donating City vehicles and equipment is by letter from the City Manager to Purchasing Division. The Total Action Against Poverty (TAP) Program has requested that one of the disposal vehicles be donated to its organization. Recently, the TAP Youth Build Program has lost the use of a shared Habitat for Humanities vehicle that has been used to transport workers and equipment to the various job sites. Due to budget limitations, TAP is prohibited from purchasing a vehicle.

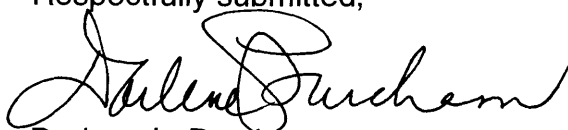
Considerations:

The staff has identified one of the Fleet Management vehicles slated to be turned in for disposal as a potential donor vehicle, shop #0817. The estimated residual value of this vehicle is \$1,505.

Recommended Action:

Authorize the donation of this vehicle to the TAP Youth Build Program in an effort to bring further City development while providing youth the skills and discipline required to effectively function within the working environment.

Respectfully submitted,

A handwritten signature in black ink, appearing to read 'Darlene L. Burcham', written in a cursive style.

Darlene L. Burcham
City Manager

DLB:rm

Attachment

C: Mary F. Parker, City Clerk
William M. Hackworth, City Attorney
Jesse A. Hall, Director of Finance
George C. Snead, Assistant City Manager for Operations
Sherman M. Stovall, Acting Director of Management and Budget

CM03-00219

IN THE COUNCIL OF THE CITY OF ROANOKE, VIRGINIA,

A RESOLUTION authorizing the donation of a City-owned vehicle to Total Action Against Poverty in Roanoke Valley, Inc., for use in its TAP Youth Build Program.

WHEREAS, the City's policy relating to disposal of surplus equipment requires Council approval of donations by the City to other organizations, and Total Action Against Poverty in Roanoke Valley, Inc., has requested that a vehicle be donated for use in its TAP Youth Build Program, as is recommended in the City Manager's letter to Council dated December 15, 2003;

THEREFORE, BE IT RESOLVED by the Council of the City of Roanoke that the City Manager is hereby authorized to execute any documents required in order to donate a disposable surplus vehicle, Shop #0817, to Total Action Against Poverty in Roanoke Valley, Inc.(TAP), for its use with its TAP Youth Build Program, to transport workers and equipment to various job sites, or whatever suitable use TAP deems appropriate.

ATTEST:

City Clerk.



CITY OF ROANOKE

OFFICE OF THE CITY MANAGER

Noel C. Taylor Municipal Building
 215 Church Avenue, S.W., Room 364
 Roanoke, Virginia 24011-1591
 Telephone: (540) 853-2333
 Fax: (540) 853-1138
 CityWeb: www.roanokegov.com

December 15, 2003

Honorable Ralph K. Smith, Mayor
 Honorable C. Nelson Harris, Vice Mayor
 Honorable William D. Bestpitch, Council Member
 Honorable M. Rupert Cutler, Council Member
 Honorable Alfred T. Dowe, Jr., Council Member
 Honorable Beverly T. Fitzpatrick, Jr., Council Member
 Honorable Linda F. Wyatt, Council Member

Dear Mayor Smith and Members of City Council:

Subject: Appropriation of Funds

The sale of 15 acres known as Tract F in the Roanoke Centre for Industry and Technology (RCIT) has been completed. Proceeds from the sale in the amount of \$825,000 need to be appropriated to the RCIT Infrastructure Extension account in the Capital Projects Fund.


The sale of 400 square feet of city-owned property on Airport Road to the Federal Aviation Administration has also been completed. Proceeds from this sale in the amount of \$42,000 need to be appropriated to a new account to be established in the Capital Projects Fund entitled "Real Estate Acquisition Expense".

Recommended Action(s):

Appropriate funding of \$825,000 to account 008-052-9632-9003 – RCIT Infrastructure Extension in the Capital Projects Fund. Establish a corresponding revenue estimate for funds which have been received from the sale of property at RCIT.

Appropriate funding of \$42,000 to a new account entitled "Real Estate Acquisition Expense" in the Capital Projects Fund. Establish a corresponding revenue estimate for funds which have been received from the sale of property on Airport Road.

Respectfully submitted,


 Darlene L. Burcham
 City Manager

DLB/SEF

c: William M. Hackworth, City Attorney
 Mary F. Parker, City Clerk
 Jesse A. Hall, Director of Finance
 Beth Neu, Director, Economic Development
 Sarah E. Fitton, Engineering Coordinator

CM03-00234

IN THE COUNCIL OF THE CITY OF ROANOKE, VIRGINIA

AN ORDINANCE to establish revenue estimates and appropriate funding from the sale of property at RCIT and from the sale of property on Airport Road, amending and reordaining certain sections of the 2003-2004 Capital Projects Fund Appropriations, and dispensing with the second reading by title of this ordinance.

BE IT ORDAINED by the Council of the City of Roanoke that the following sections of the 2003-2004 Capital Projects Fund Appropriations be, and the same are hereby, amended and reordained to read and provide as follows:

Appropriations		
Appropriated from General Revenue	008-052-9632-9003	\$ 825,000
Appropriated from General Revenue	008-530-9818-9003	42,000
Revenues		
Sale of RCIT Property	008-052-9632-1374	825,000
Sale of Property on Airport Road	008-530-9818-9818	42,000

Pursuant to the provisions of Section 12 of the City Charter, the second reading of this ordinance by title is hereby dispensed with.

ATTEST:

City Clerk.



CITY OF ROANOKE OFFICE OF THE CITY MANAGER

Noel C. Taylor Municipal Building
215 Church Avenue, S.W., Room 364
Roanoke, Virginia 24011-1591
Telephone: (540) 853-2333
Fax: (540) 853-1138
CityWeb: www.roanokegov.com

December 15, 2003

Honorable Ralph K. Smith, Mayor
Honorable C. Nelson Harris, Council Member
Honorable William D. Bestpitch, Council Member
Honorable M. Rupert Cutler, Council Member
Honorable Alfred T. Dowe, Jr., Council Member
Honorable Beverly T. Fitzpatrick, Jr., Council Member
Honorable Linda F. Wyatt, Council Member

Dear Mayor Smith and Members of City Council:

Subject: Funds Transfer for Collection
System Metering and Analysis
Services

Background:

The State Water Control Board, through the Department of Environmental Quality (DEQ) is proposing that the City of Roanoke enter into a Special Order of Consent (Collection System Order) to make improvements to the wastewater collection system. Specifically, this is a continuation of the existing Special Order addressing wet weather effects at the Water Pollution Control Plant by adding requirements to investigate and quantify sources of inflow and infiltration into the collection system.

Sewage collection system consent orders are being issued to cities throughout the Commonwealth and in other states. Costs associated with some of these orders run in the hundreds of millions of dollars. Staff have worked with other utility members of the Virginia Association of Municipal Wastewater Agencies to review existing orders and structure as reasonable and effective a solution as possible. For example, the City has agreed as part of the renewal of the Wastewater Service Contract with the other local jurisdictions to install flow meters in the collection system for billing purposes. These same flow meters can be used to meet requirements of the Collection System Order. The terms of the Collection System Order are still being negotiated. Upon receipt of a final version, Council will be asked to review and authorize execution of the order.

Substantial study is needed to evaluate the condition of the collection system and to develop recommendations for specific repairs or future construction projects. The proposed work will include installation of flow monitors into various strategic points within the collection system, implementation of several pilot projects in order to help focus investigation of inflow and infiltration, and the creation of a collection system model.

The Honorable Mayor and Members of Council
Funds Transfer for Collection System Metering and Analysis Services
December 15, 2003
Page 2

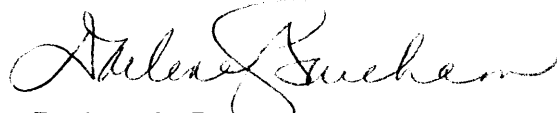
This work has been properly advertised, with proposals being received from seven engineering firms. Four short-listed firms were interviewed including Black & Veatch International Company, Hazen and Sawyer, PC, RJN Group, Inc., and Wiley & Wilson, Inc. The interview selection committee included representatives from the City's Utility Department, as well as Roanoke County and the City of Salem. The request for proposals was structured in a manner to allow participation by other local jurisdictions, at their option, in specific projects or tasks. The specific project described in this report does not involve a shared expense agreement with the other participating jurisdictions as the work is limited to the collection system components wholly owned by the City of Roanoke. However, it is anticipated that each of the participating jurisdictions will have to enter into a Special Order of Consent and will be conducting similar study activities.

The firm of Wiley & Wilson of Lynchburg, Virginia was selected by the interview panel as the most qualified. An acceptable contract has been negotiated for the work in the form of a time and materials agreement with a not to exceed fee of \$1,120,134. Other anticipated expenses associated with system modifications needed for the collection system flow meters brings the total required funding to \$1,225,000. Funds have previously been budgeted in a capital reserve account developed in anticipation of future debt service requirements.

Recommended Action:

Transfer \$1,225,000 from the Reserve for Future Debt Service (account 003-510-3172-3027) into an account to be established by the Director of Finance in the Water Pollution Control Fund entitled "Collection System Metering and Analysis".

Respectfully submitted,



Darlene L. Burcham
City Manager

DLB/mtm/sss

c: Mary F. Parker, City Clerk
William M. Hackworth, City Attorney
Jesse A. Hall, Director of Finance
Michael McEvoy, Director of Utilities

CM03-00227

AHS

IN THE COUNCIL OF THE CITY OF ROANOKE, VIRGINIA

AN ORDINANCE appropriating funds for Collection System Metering and Analysis Services, amending and reordaining certain sections of the 2003-2004 Water Pollution Control Fund Appropriations, and dispensing with the second reading by title of the ordinance.

BE IT ORDAINED by the Council of the City of Roanoke that the following sections of the 2003-2004 Water Pollution Control Fund Appropriations be, and the same are hereby, amended and reordained to read and provide as follows:

Appropriations

Reserve for Future Debt Service	003-510-3172-3027	\$ (1,225,000)
Appropriated from General Revenue	003-510-8365-9003	1,225,000

Pursuant to the provisions of Section 12 of the City Charter, the second reading of this ordinance by title is hereby dispensed with.

ATTEST:

City Clerk.



CITY OF ROANOKE OFFICE OF THE CITY MANAGER

Noel C. Taylor Municipal Building
215 Church Avenue, S.W., Room 364
Roanoke, Virginia 24011-1591
Telephone: (540) 853-2333
Fax: (540) 853-1138
CityWeb: www.roanokegov.com

December 15, 2003

Honorable Ralph K. Smith, Mayor
Honorable C. Nelson Harris, Vice Mayor
Honorable William D. Bestpitch, Council Member
Honorable M. Rupert Cutler, Council Member
Honorable Alfred T. Dowe, Jr., Council Member
Honorable Beverly T. Fitzpatrick, Jr., Council Member
Honorable Linda F. Wyatt, Council Member

Dear Mayor Smith and Members of City Council:

Subject: Amendment No.4 and Change
Order to Contract for Removal of
Biosolids at the Water Pollution
Control Plant

Background:

The City entered into a contract dated August 2, 1999 that provided for the proper removal, transportation, and disposal of biosolids with Robinson Pipe Cleaning Company. This contract has been amended three times in accordance with contract provisions, which allow the annual extension of the terms and conditions for up to four additional one-year terms, for a total of five years. This year represents the final year of services which can be authorized by the existing contract through an amendment.

The quality of work by Robinson Pipe Cleaning Company has been satisfactory for the preceding contract year. The wet weather of the past year, however, did directly impact the quantity of biosolids that could be land applied (Virginia Department of Health regulations do not permit land application during rain events or on water-saturated lands). The total dry tons of biosolids land applied was approximately 3,750 dry tons, which is short by 4,250 dry tons of the 8,000 dry ton minimum required in the contract documents. Based upon close monitoring of the activities of Robinson Pipe by Utility staff, it is the staff's opinion that the circumstances which caused Robinson Pipe to not meet the minimum work requirements of the contract were beyond Robinson Pipe's control. Such reduction in the removal of the biosolids has not impacted the City. The contract contains provisions which allow the City to assess liquidated damages against the contractor at a cost of \$89.66 per dry ton under the minimum established contract level. The City's primary concern is the potential cost increase for inflation adjustments, which is permitted under the Contract terms, and would bring this year's price to \$90.83 per dry ton.

The proposed Amendment No. 4 requires that Robinson Pipe honor the price of \$89.66 per dry ton for the first 4,250 dry tons. The next 3,750 dry tons, and any additional

The Honorable Mayor and Members of Council
Amendment No.4 and Change Order to Contract for Removal of Biosolids at the
Water Pollution Control Plant.
December 15, 2003
Page 2

amounts, will be at a cost of \$90.83 per dry ton in accordance with the provisions of such Amendment No. 4. Staff recommends a Change Order to Amendment No. 3 to reduce the required minimum number of dry tons from 8,000 to 3,750.

Funding for this work is established during budget adoption and is available in account 003-510-3150-2010.

Recommended Action:

Authorize the City Manager to execute a Change Order to Amendment No. 3 reducing the required minimum number of dry tons from 8,000 to 3,750.

Authorize an Amendment No. 4 to the Contract between Robinson Pipe Cleaning Company and the City for an additional one year period, retroactive from October 1, 2003 through September 30, 2004, at a cost of \$89.66 for the first 4,250 dry tons and \$90.83 per dry ton for the remaining 3,750 dry tons and any additional dry tons removed, with a minimum total of 8,000 dry tons and maximum of 10,000 dry tons of bio-solids removed from the City's Water Pollution Control Plant.

Authorize the City Manager to execute such additional documents and take such additional actions as may be needed to implement and administer such Amendment and Contract, including any further changes the City Manager deems appropriate.

Respectfully submitted,



Darlene L. Burcham
City Manager

DLB/mtm/ssss

c: Mary F. Parker, City Clerk
William M. Hackworth, City Attorney
Jesse A. Hall, Director of Finance
Michael McEvoy, Director of Utilities
Jeffery Powell, General Service Director
Scott Shirley, WPC

CM03-00228

IN THE COUNCIL OF THE CITY OF ROANOKE, VIRGINIA,

AN ORDINANCE authorizing the City Manager's issuance of a Change Order to Amendment No. 3 to the City's contract with Robinson Pipe Cleaning Company regarding the removing, transporting, and disposing of digested lagoon biosolids from the City's Water Pollution Control Plant; and dispensing with the second reading by title of this ordinance.

WHEREAS, City Staff has recommended a Change Order be issued to Robinson Pipe Cleaning Company in connection with Amendment No. 3 which was dated September 3, 2002, to the City's contract with such company in order to reduce the minimum number of dry tons of biosolids to be removed under such Amendment No. 3 due to the unusually wet weather during the past year.

THEREFORE, BE IT ORDAINED by the Council of the City of Roanoke as follows:

1. The City Manager is authorized to execute for and on behalf of the City, in a form approved by the City Attorney, Change Order No. 1 to Amendment No. 3 to the City's contract with Robinson Pipe Cleaning Company in order to reduce the minimum number of dry tons of biosolids to be removed from the City's Water Pollution Control Plant from 8,000 dry tons to 3,750 dry tons, all as more fully set forth in the letter to Council dated December 15, 2003.
2. This Change Order will provide authorization for deletions in the work with a decrease in the amount of the contract, all as set forth in the above letter.
3. Pursuant to the provisions of Section 12 of the City Charter, the second reading by title of this Ordinance by title is hereby dispensed with.

ATTEST:

City Clerk.

IN THE COUNCIL OF THE CITY OF ROANOKE, VIRGINIA

AN ORDINANCE authorizing execution of an amendment extending for an additional term of one year a contract with Robinson Pipe Cleaning Company for removing, transporting and disposing of digested lagooned biosolids from the City's Water Pollution Control Plant, and dispensing with the second reading by title of this ordinance.

BE IT ORDAINED by the Council of the City of Roanoke as follows:

1. The City Manager and the City Clerk are hereby authorized, for and on behalf of the City, to execute and attest, respectively, an amendment to a contract dated August 2, 1999, with Robinson Pipe Cleaning Company extending such contract for removing, transporting and disposing of digested lagooned biosolids from the City's Water Pollution Control Plant, for an additional term of one year at a cost of \$89.66 per dry ton for the first 4,250 dry tons of biosolids removed and \$90.83 per dry ton for the next 5,750 dry tons of biosolids removed, with a minimum of 8,000 dry tons of biosolids and a maximum of 10,000 dry tons of biosolids removed during the period of October 1, 2003 through September 30, 2004, for a minimum amount of \$721,667.50 and a maximum amount of \$903,327.50, as more particularly set forth in the letter of the City Manager to Council dated December 15, 2003.

2. The form of the amendment shall be approved by the City Attorney.

3. Pursuant to the provisions of Section 12 of the City Charter, the second reading of this ordinance by title is hereby dispensed with.

ATTEST:

City Clerk



CITY OF ROANOKE
OFFICE OF THE CITY MANAGER

Noel C. Taylor Municipal Building
215 Church Avenue, S.W., Room 364
Roanoke, Virginia 24011-1591
Telephone: (540) 853-2333
Fax: (540) 853-1138
CityWeb: www.roanokegov.com

December 15, 2003

Honorable Ralph K. Smith, Mayor, and Members of City Council
Roanoke, Virginia

Dear Mayor Smith and Members of Council:

Subject: DUI Recovery Program
CM03-00242

This is to request space on Council's regular agenda for a report on the above referenced subject.

Respectfully submitted,

A handwritten signature in black ink, appearing to read "Darlene L. Burcham".

Darlene L. Burcham
City Manager

DLB:sm

c: City Attorney
City Clerk
Director of Finance

AHS
IN THE COUNCIL OF THE CITY OF ROANOKE, VIRGINIA

AN ORDINANCE appropriating funds for expendable equipment in the Police department and establishing a DUI Offender Fee, amending and reordaining certain sections of the 2003-2004 General Fund Appropriations, and dispensing with the second reading by title of this ordinance.

BE IT ORDAINED by the Council of the City of Roanoke that the following sections of the 2003-2004 General Fund Appropriations be, and the same are hereby, amended and reordained to read and provide as follows:

Appropriations		
Expendable Equipment	001-640-3113-2035	\$ 10,000
Revenues		
DUI Offender Fee	001-110-1234-1412	10,000

Pursuant to the provisions of Section 12 of the City Charter, the second reading of this ordinance by title is hereby dispensed with.

ATTEST:

City Clerk.

IN THE COUNCIL OF THE CITY OF ROANOKE, VIRGINIA

AN ORDINANCE amending the Code of the City of Roanoke (1979), as amended, by adding a new Section 20-17, Reimbursement of expenses incurred in responding to DUI incidents and other traffic incidents, Article I, In General, to Chapter 20, Motor Vehicles and Traffic; providing for an effective date; and dispensing with the second reading by title of this ordinance.

BE IT ORDAINED by the Council of the City of Roanoke as follows:

1. The Code of the City of Roanoke (1979), as amended, is hereby amended and reordained by the addition of new Section 20-17, Reimbursement of expenses incurred in responding to DUI incidents and other traffic incidents, Article I, In General, to Chapter 20, Motor Vehicles and Traffic, to read and provide as follows:

ARTICLE I

IN GENERAL

§20-17 Reimbursement of expenses incurred in responding the DUI incidents and other traffic incidents.

- A. A person convicted of violating any of the following provisions shall be liable in a separate civil action for reasonable expenses incurred by the city or by any volunteer rescue squad, or both, when providing an appropriate emergency response to any accident or incident related to such violation:
1. The provisions of §§ 18.2-51.4, 18.2-266 or 29.1-738 of the Code of Virginia (1950), as amended, or similar city ordinances including § 20-52, when such operation of a motor vehicle, engine, train or watercraft while so impaired is the proximate cause of the accident or incident;

2. The provisions of Article 7 (§46.2-852 et seq.) of Chapter 8 of Title 46.2 of the Code of Virginia (1950), as amended, relating to reckless driving, when such reckless driving is the proximate cause of the accident or incident;
 3. The provisions of Article 1 (§46.2-300 et seq.) of Chapter 3 of Title 46.2 of the Code of Virginia (1950), as amended, relating to driving without a license or driving with a suspended or revoked license; and
 4. The provisions of § 46.2-894 of the Code of Virginia (1950), as amended, relating to improperly leaving the scene of an accident.
- B. Personal liability under this section for reasonable expenses of an appropriate emergency response shall not exceed one thousand dollars (\$1,000) in the aggregate for a particular accident or incident occurring in the city. In determining the "reasonable expenses," the city may bill a flat fee of one hundred dollars (\$100) or a minute-by-minute accounting of the actual costs incurred. As used in this section, "appropriate emergency response" includes all costs of providing law-enforcement, fire-fighting, rescue, and emergency medical services. The provisions of this section shall not preempt or limit any remedy available to the Commonwealth, to the city, or to any volunteer rescue squad to recover the reasonable expenses of an emergency response to an accident or incident not involving impaired driving, operations of a vehicle or other conduct as set forth herein.
2. This ordinance shall be in full force and effect on and after January 1, 2004.
 3. Pursuant to Section 12 of the City Charter, the second reading of this ordinance by title is hereby dispensed with.

ATTEST:

City Clerk.



CITY OF ROANOKE OFFICE OF THE CITY MANAGER

Noel C. Taylor Municipal Building
215 Church Avenue, S.W., Room 364
Roanoke, Virginia 24011-1591
Telephone: (540) 853-2333
Fax: (540) 853-1138
CityWeb: www.roanokegov.com

December 15, 2003

Honorable Ralph K. Smith, Mayor
Honorable C. Nelson Harris, Vice Mayor
Honorable William D. Bestpitch, Council Member
Honorable M. Rupert Cutler, Council Member
Honorable Alfred T. Dowe, Jr., Council Member
Honorable Beverly T. Fitzpatrick, Jr., Council Member
Honorable Linda F. Wyatt, Council Member

Dear Mayor Smith and Members of City Council:

Subject: Change Order No. 3
Mill Mountain Greenway

Greenways were first proposed for the City of Roanoke by landscape architect John Nolan in the 1907 and 1928 comprehensive plans he developed for the city. Nolan realized that the beneficial aspects of greenways extended far beyond their recreational value. Since that time, the Roanoke Valley community has undertaken an extensive and ambitious greenways development plan.

The Mill Mountain/Prospect Greenway was included in the Roanoke Valley Conceptual Greenway Plan, and selected as the region's pilot greenway project in 1995 by the Roanoke Valley Greenways Committee, which is comprised of representatives of all four Roanoke Valley governments. As originally envisioned, the greenway was to connect three of the valley's most visited destinations, linking the Market area with attractions on Mill Mountain, continuing on to the Blue Ridge Parkway. Due to budget constraints and other factors, the scope of the project has been divided into phases. The present phase, named the Mill Mountain Greenway and completed in September of 2003, allows walkers, runners, and bicyclists to travel from the Market area, through Elmwood Park, across Elm Avenue and down Williamson Road, across the Walnut Street Bridge, to Piedmont Park, overlooking the Roanoke River.

Due to changes in design and corrections to existing drainage problems, additional work was requested by City staff, which consisted of substituting planted medians for the concrete barrier shown on the plan, adding drainage infrastructure to Williamson Road and Piedmont Street, repaving of the greenway, the addition of sidewalk and curb on Laurel Street, and design changes at Hamilton Terrace and Piedmont Park. Such work has been done and a change order is needed in the amount of \$102,559 to pay for such work. Two change orders have previously been administratively executed.

Council approval is required as the amount of this change order, combined with the two prior change orders, exceeds twenty-five percent (25%) of the original contract amount for this project.

Funding for Change Order No. 3 is available in unspent balances from completed projects as follows:


\$ 33,083	Barnhart Street Drainage Improvements, account number 008-530-9811
30,000	RCIT Detention Maintenance Design Fees, account number 008-530-9789
14,795	Roanoke River Greenway Phase 2, account number 008-530-9756
8,887	Summit Hills Storm Drain Phase II, account number 008-530-9795
4,586	Forest Park Drainage Project, account number 008-052-9689
4,318	Mill Mountain Greenway, account number 008-052-9721
3,925	Summit Hills Drainage Project Phase I, account number 008-052-9695
2,965	Ore Branch Channel Design Fees, account number 008-530-9788
<u>\$102,559</u>	

Recommended Actions:

Authorize the City Manager to execute Change Order No. 3 in the amount of \$102,559 with H. & S. Construction Company for the above work.

Transfer the amounts of \$33,083 from Barnhart Street Drainage Improvements, account number 008-530-9811; \$30,000 from RCIT Detention Maintenance Design Fees, account number 008-530-9789; \$14,795 from Roanoke River Greenway Phase 2, account number 008-530-9756; \$8,887 from Summit Hills Storm Drain Phase II, account number 008-530-9795; \$4,586 from Forest Park Drainage Project, account number 008-052-9689; \$3,925 from Summit Hills Drainage Project Phase I, account number 008-052-9695; and \$2,965 from Ore Branch Channel Design Fees, account number 008-530-9788; to Mill Mountain Greenway, account number 008-052-9721.

Respectfully submitted,


Darlene L. Burham
City Manager

DLB/KDK/na

c: Mary F. Parker, City Clerk
William M. Hackworth, City Attorney
Jesse A. Hall, Director of Finance
Philip C. Schirmer, P.E., L.S., City Engineer

#CM03-00243

IN THE COUNCIL OF THE CITY OF ROANOKE, VIRGINIA

AN ORDINANCE to transfer funding from various projects related to change order number 3 for the Mill Mountain Greenway Project, amending and reordaining certain sections of the 2003-2004 Capital Projects Fund Appropriations, and dispensing with the second reading by title of this ordinance.

BE IT ORDAINED by the Council of the City of Roanoke that the following sections of the 2003-2004 Capital Projects Fund Appropriations be, and the same are hereby, amended and reordained to read and provide as follows:

Appropriations

Appropriated from 1999 Bond Funds	008-530-9811-9001	\$ (33,083)
Appropriated from 1999 Bond Funds	008-530-9789-9001	(30,000)
Appropriated from General Revenue	008-530-9756-9003	(14,795)
Appropriated from 1999 Bond Funds	008-530-9795-9001	(8,887)
Appropriated from 1996 Bond Funds	008-052-9689-9088	(4,586)
Appropriated from 1999 Bond Funds	008-052-9695-9001	(3,925)
Appropriated from 1999 Bond Funds	008-530-9788-9001	(2,965)
Appropriated from 1999 Bond Funds	008-052-9721-9001	78,860
Appropriated from General Revenue	008-052-9721-9003	14,795
Appropriated from 1996 Bond Funds	008-052-9721-9088	4,586

Pursuant to the provisions of Section 12 of the City Charter, the second reading of this ordinance by title is hereby dispensed with.

ATTEST:

City Clerk.

AT,

IN THE COUNCIL OF THE CITY OF ROANOKE, VIRGINIA,

AN ORDINANCE authorizing the City Manager's issuance of Change Order No. 3 to the City's contract with H. & S. Construction Company for changes in design and corrections to existing drainage problems in connection with the Mill Mountain Greenway; and dispensing with the second reading by title of this ordinance.

BE IT ORDAINED by the Council of the City of Roanoke that:

1. The City Manager is authorized to execute for and on behalf of the City, in a form approved by the City Attorney, Change Order No. 3 to the City's contract with H. & S. Construction Company for changes in design and corrections to existing drainage problems in connection with the Mill Mountain Greenway, all as more fully set forth in the letter to this Council dated December 15, 2003.
2. This Change Order will provide authorization for additions in the work with an increase in the amount of \$102,559 to the contract, all as set forth in the above letter.
3. Pursuant to the provisions of Section 12 of the City Charter, the second reading of this ordinance by title is hereby dispensed with.

ATTEST:

City Clerk.



CITY OF ROANOKE OFFICE OF THE CITY MANAGER

Noel C. Taylor Municipal Building
215 Church Avenue, S.W., Room 364
Roanoke, Virginia 24011-1591
Telephone: (540) 853-2333
Fax: (540) 853-1138
CityWeb: www.roanokegov.com

December 15, 2003

Honorable Ralph K. Smith, Mayor
Honorable C. Nelson Harris, Vice Mayor
Honorable William D. Bestpitch, Council Member
Honorable M. Rupert Cutler, Council Member
Honorable Alfred T. Dowe, Jr., Council Member
Honorable Beverly T. Fitzpatrick, Jr., Council Member
Honorable Linda F. Wyatt, Council Member

Subject: Amendment No. 1 to Roanoke Valley
Regional Cable Television Committee
Agreement

Dear Mayor Smith and Members of City Council:

This Amendment updates the Roanoke Valley Regional Cable Television Committee (RVRCTC) Agreement (the 'Agreement') to reaffirm the continued participation of Roanoke City, Roanoke County, and Vinton Township in the Agreement. Roanoke County and Vinton adopted revised ordinances and franchise agreements to support their continued participation in RVRCTC shortly after the Roanoke City Council adopted similar agreements on October 6, 2003. This Amendment updates the Agreement to incorporate the actions of the County and Vinton, as follows:

On October 6, 2003, City Council adopted Ordinance No. 36503-100603, which provided for a revised Cable Television Franchise Ordinance for the City and provided for an effective date of October 31, 2003. On October 7, 2003, Vinton Town Council adopted Ordinance No. 792, which is substantially similar to the City's. On October 28, 2003, Roanoke County adopted Ordinance No. 102803-12, which is substantially similar to the City's. The three Ordinances provided that each jurisdiction affirmed its continued participation in and support of the Roanoke Valley Regional Cable Television Committee (CATV Committee) which had been created by an agreement dated June 9, 1992, among the three jurisdictions (RVRCTC Agreement). Such Agreement provides for the Committee to provide for the development, administration, and operation of cable

television governmental, educational and institutional facilities and programming and referred to the prior ordinances adopted by the jurisdictions in 1991.

Pursuant to the ordinances adopted by each of the jurisdictions in October 2003, each jurisdiction has entered into a Cable Television Franchise Agreement between the respective jurisdiction and CoxCom, Inc., d/b/a Cox Communications Roanoke as of November 1, 2003.

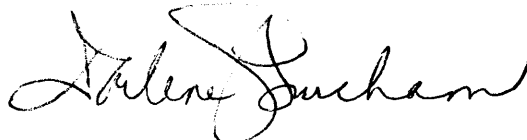
The RVRCTC Agreement needs to be modified to provide references to the current Cable Television Franchise Ordinances and the Cable Television Franchise Agreements entered into by each of the jurisdictions. Accordingly, an Amendment No. 1 to such Agreement has been drafted and reviewed by counsel for the three jurisdictions and requires approval by City Council. A copy of Amendment No. 1 is attached to this letter as Attachment A.

Recommended Action:

Council approve the terms of Amendment No. 1 to the RVRCTC Agreement as set forth in attachment A to this letter and authorize the City Manager to execute such Amendment in a form substantially similar to the one attached to this letter, in a form approved by the City Attorney.

Authorize the City Manager to take such further action and execute such additional documents as may be necessary to implement and administer Amendment No. 1 to the RVRCTC Agreement and the Agreement itself.

Respectfully submitted,



Darlene L. Burcham
City Manager

c: Mary F. Parker, City Clerk
Jesse A. Hall, Director of Finance
William M. Hackworth, City Attorney
John Elie, Director, Department of Technology

CM03-0240

**AMENDMENT NO. 1 TO
ROANOKE VALLEY REGIONAL
CABLE TELEVISION COMMITTEE
AGREEMENT**

THIS Amendment No. 1 is dated _____, 2003, by and between the CITY OF ROANOKE, a municipal corporation of the Commonwealth of Virginia ("City"); the COUNTY OF ROANOKE, a political subdivision of the Commonwealth of Virginia ("County"); and the TOWN OF VINTON, a municipal corporation of the Commonwealth of Virginia ("Town").

RECITALS

WHEREAS, by the Roanoke Valley Regional Cable Television Committee Agreement, by and between the City, the County and the Town, dated as of June 9, 1992 (the "Agreement"), the City, the County and the Town authorized the creation of the Roanoke Valley Regional Cable Television Committee (the "Committee") and authorized that Committee to provide for the development, administration, and operation of cable television governmental, educational and institutional facilities and programming; and

WHEREAS, by Ordinance Nos. 36503-100603, 102803-12, and 792, effective October 31, 2003, respectively (the "New Ordinances"), the City, the County, and the Town have repealed and superceded Ordinances Nos. 30478-42291, 42391-5, and 545, respectively (the "Ordinances"), with the New Ordinances governing the granting and regulation of one or more franchises to construct, operate, and maintain one or more cable television systems within their jurisdictions; and

WHEREAS, pursuant to the New Ordinances, the City, the County, and the Town have entered into new Cable Television Franchise Agreements with CoxCom, Inc., d/b/a Cox Communications Roanoke, effective November 1, 2003 (“New Franchise Agreements”); and

WHEREAS, the City, the County and the Town desire, subject to the terms set forth herein and in the Agreement, to continue the Agreement and the operation of the Committee during the term of the New Franchise Agreements; and

WHEREAS, the City, the County and the Town desire to amend the Agreement to reflect the New Ordinances and New Franchise Agreements.

WITNESSETH

THAT FOR AND IN CONSIDERATION of the mutual covenants and agreements contained herein, the parties hereto, pursuant to the provisions of Section 15.2-1300 of the Code of Virginia (1950), as amended, do covenant and agree to amend the Agreement and continue such Agreement and the operation of the Committee upon the terms and conditions set forth herein.

Section 1. The Agreement is hereby amended as follows:

(a) Section I, Term, of the Agreement is amended by striking “Cable Television Franchise Agreements granted pursuant to the Ordinances by the City, County and Town to Cox Cable Roanoke, Inc., (‘Franchise Agreements’)” and substituting in its place, “New Franchise Agreements granted pursuant to the New Ordinances”.

(b) Section II, Establishment and Terms of Members, of the Agreement is amended by (i) striking “Section 11 of the Ordinances” and substituting in its place,

“Section 5 of the New Ordinances”, and (ii) substituting a copy of Section 5 of the New Ordinances as Exhibit A to the Agreement.

(c) Section III, Purpose and Administration, of the Agreement is amended by (i) striking the reference to “Ordinances” and replacing it with “New Ordinances”, (ii) striking all references to “Franchise Agreements” and replacing them with “New Franchise Agreements”, and (iii) striking the reference to “Cox Cable Roanoke, Inc.” and replacing it with “CoxCom, Inc., d/b/a Cox Communications Roanoke”.

(d) Section IV, Financing and Budgets, of the Agreement is amended by striking the reference to “Cox Cable Roanoke, Inc.” and replacing it with “CoxCom, Inc., d/b/a Cox Communications Roanoke”.

Section 2. All the terms and provisions of the Agreement shall continue to be unchanged and remain in full force and effect, except as modified above.

WITNESS the following signatures and seals:

CITY OF ROANOKE

ATTEST

By: _____

By: _____

Title: _____

Title: _____

COUNTY OF ROANOKE

ATTEST

By: _____

By: _____

Title: _____

Title: _____

TOWN OF VINTON

ATTEST

By: _____

By: _____

Title: _____

Title: _____

Approved as to form

Approved as to Execution

By _____
City Attorney

By _____
City Attorney

Exhibit A to Amendment No. 1

Section 5. Roanoke Valley Regional Cable Television Committee.

As of the date of adoption of this Ordinance, the County, the City and the Town have, pursuant to ordinances duly adopted by each of them, jointly established a committee known as the Roanoke Valley Regional Cable Television Committee (the "CATV Committee"). By adoption of this Ordinance, the City does hereby affirm its continued participation in and support of the CATV Committee, which shall comprise eleven (11) members and have the duties and responsibilities as set forth below:

(a) Members. One member shall be provided from each of the Governing Bodies of the County, the City and the Town; three members shall be the Chief Executives (or their designees) from each of the County, the City and the Town; one member shall be appointed by each of the Roanoke County and Roanoke City School Boards; and one member-at-large shall be appointed by each of the Governing Bodies of the County, the City and the Town.

(b) Chairperson. The CATV Committee shall select a chairperson from its membership, who shall serve for a period of one year or such other term as the CATV Committee may deem appropriate.

(c) Terms of Office. The terms of office of the three at-large members shall be for three years each, provided that such terms shall be staggered, with a continuation of the staggered sequence established by the CATV Committee prior to the adoption of this Ordinance; members from the Governing Bodies of each of the jurisdictions and those appointed by their respective School Boards shall serve for such terms as are determined by their respective appointing authorities.

(d) Meetings. Meetings of the CATV Committee shall be held not less than once per year, and at such more frequent times as the Chairperson or the Committee

shall determine; a quorum shall consist of five members. The Committee may adopt such procedures and bylaws as it deems necessary for the proper exercise of its responsibilities.

(e) Scope. The CATV Committee shall fulfill its responsibilities with respect to any Franchisee or applicant for a Franchise as to which the Cable Service provided or proposed shall extend within or to any portion of all of the three jurisdictions addressed herein.

(f) Franchisee Attendance. The General Manager (or his or her designee) of each Franchisee within the scope of the CATV Committee's responsibilities shall be afforded the opportunity to attend each meeting of the CATV Committee, with at least ten (10) days advance notice to be provided whenever reasonably possible, except when the CATV Committee meetings holds a closed meeting.

(g) Powers and Duties. The CATV Committee shall:

(i) Advise the affected Governing Bodies concerning any applications for Franchises.

(ii) Provide for the development, administration, and operation of EG access facilities and programming for the City, County and Town as provided for in this Ordinance and any franchise agreements. The administration of all such EG activities shall be undertaken by the Committee.

(iii) Monitor each Franchisee's compliance with the provisions of this Ordinance and any Franchise granted hereunder, and advise affected Governing Bodies of matters that may constitute grounds for a monetary forfeiture or Franchise revocation.

(iv) Advise the affected Governing Bodies concerning the regulations of Cable rates.

(v) Receive, record and consider Subscriber complaints that have not been resolved by a Franchisee; attempt to resolve and respond to all such complaints,

maintaining a record of all resolutions; and report annually to each Governing Body the results of its actions with respect to such complaints.

(vi) Review any proposed transfer of a Franchise and recommend whether such transfer should be approved.

(vii) Coordinate review of each Franchisee's records as may be required by this Ordinance.

(viii) Encourage the use of such EG access channels and facilities as are required under this Ordinance or any Franchise by the widest range of institutions, groups and individuals within the Service Areas of the respective Franchisees, consistent with applicable law.

(ix) Review budgets prepared by departments within affected jurisdictions for EG channel usage, and coordinate the expenditure of any capital grant funds provided by any Franchisee to maximize the potential and provide for the full development of EG channel usage.

(x) Advise the Governing Bodies of the jurisdictions addressed herein as to proposed rules and procedures under which a Franchisee may use unused EG channel capacity for the provision of other services, and under which such Franchisee use shall cease.

(xi) Coordinate programming and activities on EG channels, develop appropriate policies and procedures therefor, and assist in preparation and review of budgets for all cablecasting activities on EG channels.

(xii) Maintain records in accordance with statutory requirements.

IN THE COUNCIL OF THE CITY OF ROANOKE, VIRGINIA

AN ORDINANCE approving and authorizing execution of Amendment No. 1 to the Roanoke Valley Regional Cable Television Committee Agreement among the City of Roanoke, the County of Roanoke and the Town of Vinton; and dispensing with the second reading by title of this ordinance.

WHEREAS, the City of Roanoke, the County of Roanoke, and the Town of Vinton previously entered into a Roanoke Valley Regional Cable Television Committee Agreement dated June 9, 1992, that authorized the Committee to provide for the development, administration, and operation of cable television governmental, educational and institutional facilities and programming; and

WHEREAS, the three jurisdictions have enacted Cable Television Franchise Ordinances effective October 31, 2003, and entered into Cable Television Franchise Agreements, pursuant to those ordinances, with CoxCom, Inc., d/b/a Cox Communications Roanoke; and

WHEREAS, the Roanoke Valley Regional Cable Television Committee Agreement needs to be modified to reflect references to the recently adopted Cable Television Franchise Ordinances and Cable Television Franchise Agreements mentioned above.

THEREFORE, BE IT ORDAINED by the Council of the City of Roanoke as follows:

1. City Council hereby approves the substance of the terms of Amendment No. 1 to the Roanoke Valley Regional Cable Television Committee Agreement attached to the City Manager's letter to Council dated December 15, 2003.
2. The City Manager and the City Clerk are hereby authorized, for and on behalf of the City, to execute and attest, respectively, Amendment No. 1 to the Roanoke Valley Regional Cable Television Committee Agreement in a form substantially similar to the one attached to the above mentioned City Manager's Letter.

3. The form of the Amendment shall be approved by the City Attorney.
4. The City Manager is authorized to take such further action and execute such additional documents as may be necessary to implement and administer such Amendment No. 1 to the Roanoke Valley Regional Cable Television Committee Agreement and the Agreement itself.
5. Pursuant to the provisions of Section 12 of the City Charter, the second reading of this ordinance by title is hereby dispensed with.

ATTEST:

City Clerk



CITY OF ROANOKE

DEPARTMENT OF FINANCE

215 Church Avenue, S.W., Room 461

P.O. Box 1220

Roanoke, Virginia 24006-1220

Telephone: (540) 853-2821

Fax: (540) 853-6142

JESSE A. HALL

Director of Finance

email: jesse_hall@ci.roanoke.va.us

ANN H. SHAWVER

Deputy Director

email: ann_shawver@ci.roanoke.va.us

December 15, 2003

The Honorable Ralph K. Smith, Mayor
 The Honorable C. Nelson Harris, Vice Mayor
 The Honorable William D. Bestpitch, Council Member
 The Honorable M. Rupert Cutler, Council Member
 The Honorable Alfred T. Dowe, Jr., Council Member
 The Honorable Beverly T. Fitzpatrick, Jr., Council Member
 The Honorable Linda F. Wyatt, Council Member

Dear Mayor Smith and Members of City Council:

Subject: FY03 Audited CMERP

In mid-September, Council was presented with the unaudited total of funds available for capital maintenance and equipment replacement (CMERP). Due to the short period of time in which the annual closing process is completed, these amounts were partially based on estimates. The calculations used to achieve these estimates were based on a 60-day period of availability for revenues received after year-end. Similarly, expenditures are subject to accrual to the extent they relate to goods or services received prior to June 30th.

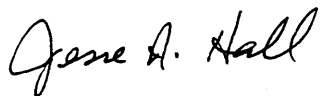
During the course of annual financial statement preparation, actual revenues and expenditures were identified, and some adjustments were made to incorporate actual data into the FY03 financial statements. This resulted in an adjustment to CMERP for both the General Fund and the School Fund. Adjustments in General Fund CMERP stemmed from changes in general local tax revenues and an expenditure accrual which generated a net increase of \$175,401. Of this amount, \$101,069 was shared with the School Board based on our revenue sharing formula. Adjustments in the School Fund stemmed from changes in school sales tax revenues which generated an increase of \$103,485. Total School CMERP increased \$204,554, while City-retained CMERP increased \$74,332. A comparison of unaudited and audited CMERP is as follows:

	Unaudited	Audited	Increase
General Fund – City Portion	\$2,480,774	\$2,555,106	\$ 74,332
General Fund - School Portion	<u>529,557</u>	<u>630,626</u>	<u>101,069</u>
Total General Fund	\$3,010,331	\$3,185,732	\$175,401
School Fund	\$2,000,149	\$2,103,634	\$103,485

Honorable Mayor and Members
of City Council
December 15, 2003

This report is provided for your information and no action is required. I will be pleased to answer any questions City Council may have regarding this matter.

Respectfully submitted,

A handwritten signature in cursive script that reads "Jesse A. Hall".

Jesse A. Hall
Director of Finance

JAH/DH

c: Darlene L. Burcham, City Manager
William M. Hackworth, City Attorney
Mary F. Parker, City Clerk
E. Wayne Harris, Superintendent of Schools
Richard Kelley, Assistant Superintendent for Operations
Sherman M. Stovall, Acting Director of Management & Budget



CITY OF ROANOKE
PLANNING BUILDING AND DEVELOPMENT

215 Church Avenue, S.W., Room 166
Roanoke, Virginia 24011
Telephone: (540) 853-1730 Fax: (540) 853-1230
E-mail: planning@ci.roanoke.va.us

December 15, 2003

Architectural Review Board
Board of Zoning Appeals
Planning Commission

Mr. Robert B. Manetta, Chairman, Planning Commission
Mr. Richard A. Rife, Vice Chairman, Planning Commission
Mr. Gilbert E. Butler, Jr., Planning Commission
Mr. Kent D. Chrisman, Planning Commission
Ms. Paula Prince, Planning Commission
Mr. Henry Scholz, Planning Commission
Mr. Fredrick M. Williams, Planning Commission

Honorable Ralph K. Smith, Mayor
Honorable C. Nelson Harris, Vice Mayor
Honorable William D. Bestpitch, Council Member
Honorable M. Rupert Cutler, Council Member
Honorable Alfred T. Dowe, Jr., Council Member
Honorable Beverly T. Fitzpatrick, Jr., Council Member
Honorable Linda F. Wyatt, Council Member

Dear Members of the Planning Commission and City Council:

Subject: Amending the following sections of Chapter 36.1, Zoning, of the Code of the City of Roanoke (1979), as amended: §36.1-25, Definitions, and §36.1-207, Special exception uses, to permit the establishment of outpatient mental health and substance abuse clinics as a special exception use in only the C-2, General Commercial District, of the City of Roanoke.

Background:

The City of Roanoke Zoning Ordinance provides a single, broad definition of a "medical clinic", defining it as "an establishment which offers medical- or health-related counseling or treatment (including diagnosis), including dental, optical, and psychiatric treatment, where treatment is offered by more than two (2) licensed professional medical practitioners." A "medical clinic" is currently permitted as a use by right in the C-2, General Commercial District, and in the C-3, Central Business District, and is permitted by special exception in the CN, Neighborhood Commercial District, the C-1, Office District, and the LM, Light Manufacturing District.

The current definition of “medical clinic” covers a wide range of medical specialties, practices, and services. While most medical facilities and clinics have similar physical, functional, and land use characteristics, there are other types of facilities that, by nature of their operational and functional needs or characteristics, could have potential adverse impacts on adjacent land uses. Certain medical clinics which provide services for drug and alcohol abuse or treatment of mental illness have the potential to exhibit operational hours, parking needs, and security measures that are unique unto themselves, and are not shared by other medical clinic facilities as contemplated by the current zoning ordinance definition.

Considerations:

To address potential adverse impacts of some types of medical clinics that are accommodated by the current definition in the Zoning Ordinance, one alternative would be to maintain the current broad definition of medical clinics and regulate all such clinics on a case-by-case basis as special exception uses as opposed to the manner in which they are regulated currently, either by special exception or by right depending on the applicable zoning district. This option, however, while sufficiently addressing new locations, would result in allowing any existing medical clinic location to change its medical specialty or type of practice without obtaining a special exception permit.

Therefore, in order to more clearly define and regulate certain types of medical clinics, which tend to exhibit unique functional and operational characteristics, these proposed text amendments establish a newly defined land use as follows:

Outpatient Mental Health and Substance Abuse Clinic: An establishment which provides outpatient services related to the treatment of mental health disorders, alcohol, or other drug or substance abuse disorders including the dispensing and administering of controlled substances and pharmaceutical products by licensed professional medical practitioners.

The proposed text amendments would permit “outpatient mental health and substance abuse clinics” in the C-2, General Commercial District, upon the issuance of a special exception by the Board of Zoning Appeals. Such regulation would provide a specific process for the review and approval of these unique types of medical facilities including general public notice of such a proposed use, the notification of abutting property owners, and a public hearing by the Board of Zoning Appeals. These text amendments allow for the retention of the current definition and regulation of other types of medical clinics as originally contemplated by the Zoning Ordinance.

Given the continuing evolution of healthcare delivery systems, and the potential for land uses that are accommodated under the term "medical clinic", as currently defined, to be more intensive than originally contemplated, the Zoning Ordinance should set forth clearer definition and more appropriate regulation of certain types of medical facilities. The proposed amendments will strengthen the City's ability to preserve the integrity of future land use and provide a public forum for consideration of those medical facilities exhibiting unique operational and functional characteristics.

The proposed text amendments, which give the City a process to better address the potential concerns of higher intensity medical facilities, further the recommended actions of **Vision 2001-2020** to update the zoning ordinance to accommodate changes in lands uses and to protect and improve the quality of life in the City's neighborhoods. The amendments are also consistent with **Vision 2001-2020's** policies that stress compatibility of uses and the protection of the City's neighborhoods.

Recommendation:

Given the evolution of healthcare delivery systems and **Vision 2001-2020's** recommendations to update the zoning ordinance to accommodate changes in land uses, the Planning Commission should recommend approval of the proposed text amendments to City Council.

City Council should consider the recommendation of the Planning Commission.

Respectfully submitted,

A handwritten signature in black ink that reads "R. Brian Townsend". The signature is written in a cursive, flowing style.

R. Brian Townsend, Agent
Roanoke City Planning Commission

Attachments

c: Darlene L. Burcham, City Manager
Rolanda Russell, Assistant City Manager for Community Development
William M. Hackworth, City Attorney
Steven J. Talevi, Assistant City Attorney
Mary F. Parker, City Clerk

IN THE COUNCIL OF THE CITY OF ROANOKE, VIRGINIA,

AN ORDINANCE amending and reordaining §36.1-25, Definitions, of Article II, Construction of Language and Definitions, and §36.1-207, Special exception uses, of Division 3, Commercial District Regulations, of Article III, District Regulations, of Chapter 36.1, Zoning, of the Code of the City of Roanoke (1979), as amended, to permit the establishment of outpatient mental health and substance abuse clinics as a special exception use in only the C-2, General Commercial District, of the City of Roanoke; and dispensing with the second reading by title of this ordinance.

BE IT ORDAINED by the Council of the City of Roanoke as follows:

1. Section 36.1-25, Definitions, of Article II, Construction of Language and Definitions, of Chapter 36.1, Zoning, of the Code of the City of Roanoke (1979), as amended, is hereby amended and reordained to read and provide as follows:

Section 36.1-25. Definitions.

For the purpose of this chapter certain terms and words used herein shall be defined as follows:

* * *

Outpatient mental health and substance abuse clinics: An establishment which provides outpatient services related to the treatment of mental health disorders, alcohol, or other drug or substance abuse disorders including the dispensing and administering of controlled substances and pharmaceutical products by professional medical practitioners as licensed by the Commonwealth of Virginia.

* * *

2. Section 36.1-207, Special exception uses, of Division 3, Commercial District Regulations, of Article III, District Regulations, of Chapter 36.1, Zoning, of the Code of the City of Roanoke (1979), as amended, is hereby amended and reordained to read and provide as follows:

Sec. 36.1-207. Special exception uses.

The following uses may be permitted in the C-2 district by special exception granted by the board of zoning appeals subject to the requirements of this section:

* * *

(4) *Outpatient mental health and substance abuse clinics.*

* * *

3. Pursuant to the provisions of Section 12 of the City Charter, the second reading of this ordinance by title is hereby dispensed with.

ATTEST:

City Clerk.



CITY OF ROANOKE
PLANNING BUILDING AND DEVELOPMENT

215 Church Avenue, S.W., Room 166
 Roanoke, Virginia 24011
 Telephone: (540) 853-1730 Fax: (540) 853-1230
 E-mail: planning@ci.roanoke.va.us

Architectural Review Board
 Board of Zoning Appeals
 Planning Commission

December 15, 2003

Honorable Ralph K. Smith, Mayor
 Honorable C. Nelson Harris, Vice Mayor
 Honorable William D. Bestpitch, Council Member
 Honorable M. Rupert Cutler, Council Member
 Honorable Alfred T. Dowe, Jr., Council Member
 Honorable Beverly T. Fitzpatrick, Jr., Council Member
 Honorable Linda F. Wyatt, Council Member

Dear Mayor Smith and Members of City Council:

Subject: Request from Farren Webb and Lynette Webb, represented by Edward A. Natt, attorney, that property located at the intersection of Yellow Mountain Road and Melcher Street, S.E., bearing Official Tax No. 4300722, be rezoned from CN, Neighborhood Commercial District, to RM-1, Residential Multifamily, Low Density District, subject to certain conditions.

Planning Commission Action:

Planning Commission public hearing was held on Thursday, November 20, 2003. By a roll call vote of 6-0 (Mr. Chrisman absent), the Commission recommended approval of the rezoning request.

Background:

A Petition to Rezone was filed on September 30, 2003. A First Amended Petition, with proffered condition, was filed on November 6, 2003. The condition proffered by the petitioner is as follows:

- (a) Each of the lots will be used solely for single-family detached dwellings.

The subject property totals 0.379 acre, more or less, and is located at the corner of Yellow Mountain Road and Melcher Street, S.E. The petitioner proposes to subdivide the subject property and construct three single-family homes on three lots.

Considerations:

The subject parcel, which was created by the subdivision of a 1.07 acre “through lot” that contained frontage on both Garden City Boulevard and Melcher Street, S.E., is currently zoned CN, Neighborhood Commercial District. Surrounding zoning and land uses are residential and commercial, with all parcels on both sides of the block face of Melcher Street being residentially zoned and residentially developed.

- Properties along the entire block face of Melcher Street, S.E., are zoned RM-1, Residential Multifamily, Low Density District.
- The property adjacent to the rear of the subject property fronts on Garden City Boulevard, and is developed residentially, but is zoned CN, Neighborhood Commercial.
- Properties with frontage on Garden City Boulevard at and near the intersection of Yellow Mountain Road are zoned CN, Neighborhood Commercial, and include the Garden City Recreation Center operated by City Parks and Recreation (which building is oriented to Yellow Mountain Road), a convenience store with gas pumps, and an automobile repair establishment.

Given that the subject property has no frontage on Garden City Boulevard and that the balance of the block face of Melcher Street on which the subject property has frontage is zoned RM-1, the application of the RM-1 zoning classification to the subject property would be consistent with the residential development along Melcher Street and would preclude commercial development along a residentially developed block. The residential development pattern of Melcher Street includes single-family residential structures ranging in size from 700 square feet to 1600 square feet.

The RM-1 zoning designation would require lots with a minimum lot frontage of 50 feet and a minimum lot area of 5,000 square feet. Such frontage and lot area are consistent with the residential lots on the interior of the block of Melcher Street. Furthermore, the petitioner’s proffered condition to limit use of the property to single-family dwellings is consistent with the residential development pattern of the area.

Given the subject parcel’s lack of frontage on Garden City Boulevard and the residential development pattern of Melcher Street, the subject property creates an appropriate location for single-family residential development. Furthermore, such zoning designation would further define the CN, Neighborhood Commercial District, along Garden City Boulevard and maintain its focus near the intersection of Yellow Mountain Road.

The development of single-family residential dwellings on the subject property is consistent with the following policy of **Vision 2001-2020**:

- NH P5. Housing choice: The City will have a balanced, sustainable range of housing choices in all price ranges and design options that encourage social and economic diversity throughout the City.

No one has contacted the planning staff in opposition to this petition.

During the Planning Commission public hearing, Edward A. Natt, attorney, presented the request on behalf of the petitioner. Nancy Snodgrass, City Planner, presented the staff report, recommending approval of the request. There was no public comment during the hearing.

Recommendation:

The Commission recommends that City Council approve the rezoning request, given the existing residential development pattern of Melcher Street.

Respectfully submitted,

A handwritten signature in black ink, reading "Robert B. Manetta". The signature is fluid and cursive, with a large initial "R".



Robert B. Manetta, Chairman ^{PBT}
Roanoke City Planning Commission

attachments

cc: Darlene L. Burcham, City Manager
Rolanda Russell, Assistant City Manager for Community Development
William M. Hackworth, City Attorney
Steven J. Talevi, Assistant City Attorney
Edward A. Natt, Attorney for the Petitioner



Yellow Mountain Road and Melcher Street

-  Subject Property
-  Zoning Districts

FIRST AMENDED PETITION TO REZONE

IN THE COUNCIL OF THE CITY OF ROANOKE, VIRGINIA

IN RE:

Rezoning of property totaling 0.379 acre, more or less, identified as Tax Map No. 4300722, located at the corner of Yellow Mountain Road and Melcher Street, S.E., from CN, Neighborhood Commercial District, to RM-1, Residential Multi-family, Low Density District.

TO THE HONORABLE MAYOR AND MEMBERS OF THE COUNCIL OF THE CITY OF ROANOKE:

The Petitioners, FARREN WEBB and LYNETTE WEBB, are the owners of property containing 0.379 acre, more or less, which is identified as Tax Map No. 4300722 and situated at the intersection of Yellow Mountain Road and Melcher Street, S.E. Said tract is currently zoned CN, Neighborhood Commercial District. A map of the property to be rezoned is attached as Exhibit 1. A concept plan is attached as Exhibit 2-A, Exhibit 2-B, Exhibit 2-C and Exhibit 2-D.

Pursuant to Section 36.1-690, Code of the City of Roanoke (1979), as amended, the Petitioners request that property containing 0.379 acre, more or less, which is identified as Tax Map No. 4300722, be rezoned from CN, Neighborhood Commercial District, to RM-1, Residential Multi-family, Low Density District, for the purpose of locating three single-family homes on three lots.

The Petitioners believe the rezoning of said tract of land will further the intent and purposes of the City's Zoning Ordinance and its comprehensive plan, in that it will enable a parcel of land located on Melcher Street, S.E. to be used for residential purposes as other properties in the area are so utilized.

Attached as Exhibit 3 are the names, addresses and tax numbers of the owners

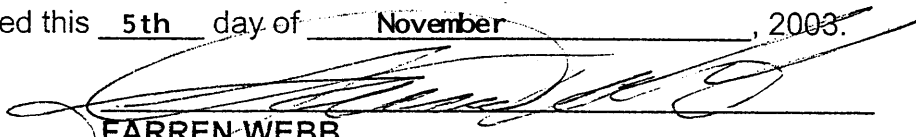
of all lots or property immediately adjacent to and immediately across a street or road from the property to be rezoned.

The Petitioners voluntarily submit the following proffer to be included as a part of the rezoning request:

- (a) Each of the lots will be used solely for single-family detached dwellings.

WHEREFORE, the Petitioners request that the above-described property be rezoned as requested in accordance with the provisions of the Zoning Ordinance of the City of Roanoke.

Respectfully submitted this 5th day of November, 2003.

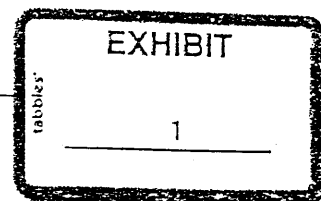


FARREN WEBB

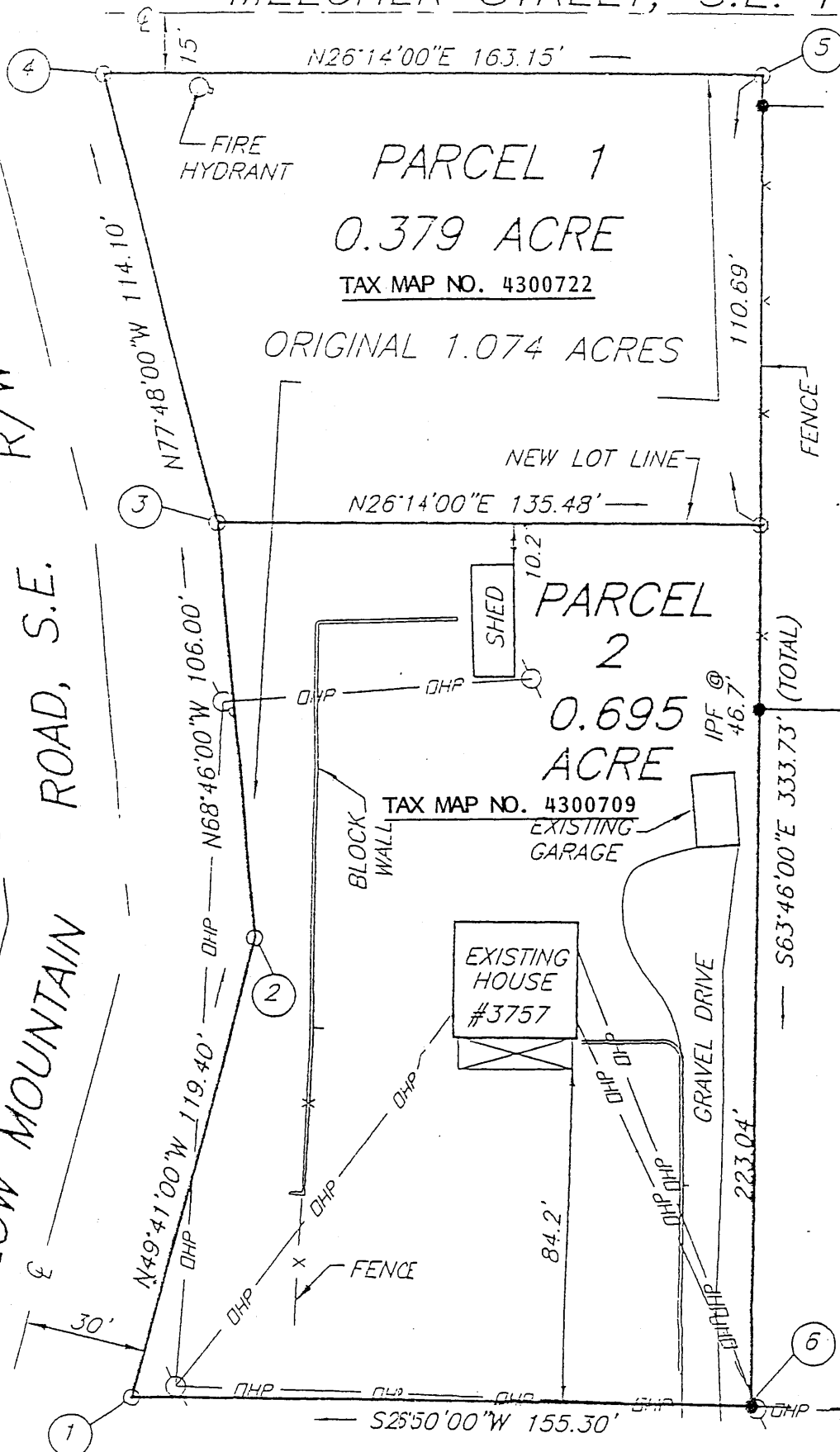
LYNETTE WEBB

Edward A. Natt, Esq.
OSTERHOUDT, PRILLAMAN, NATT, HELSCHER,
YOST, MAXWELL & FERGUSON, P.L.C.
P. O. Box 20487
Roanoke, VA 24018-0049
Phone: (540) 725-8180
Fax: (540) 772-0126
VSB #1104

MELCHER STREET, S.E. R/W VARIES



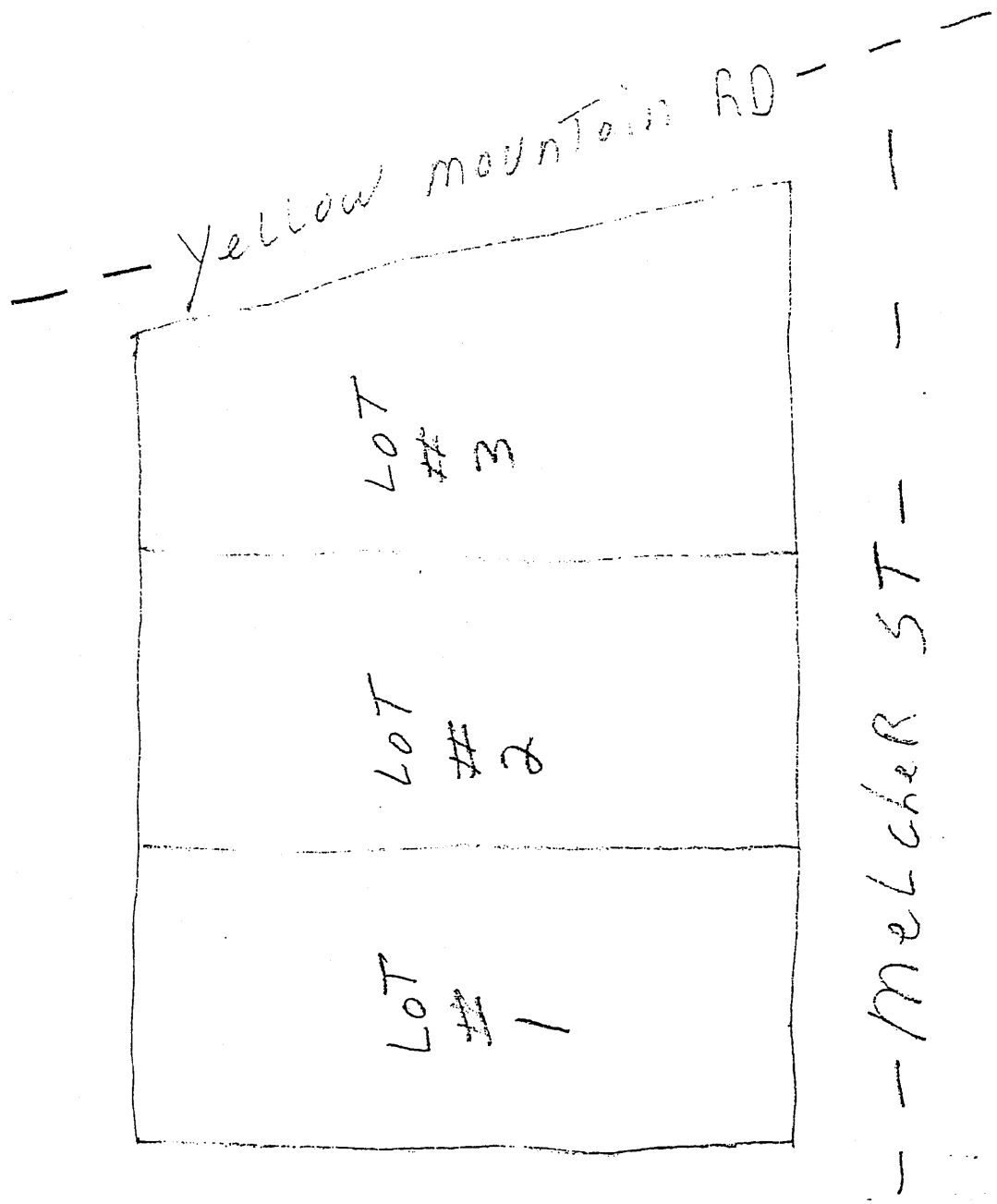
YELLOW MOUNTAIN ROAD, S.E.
R/W VARIES

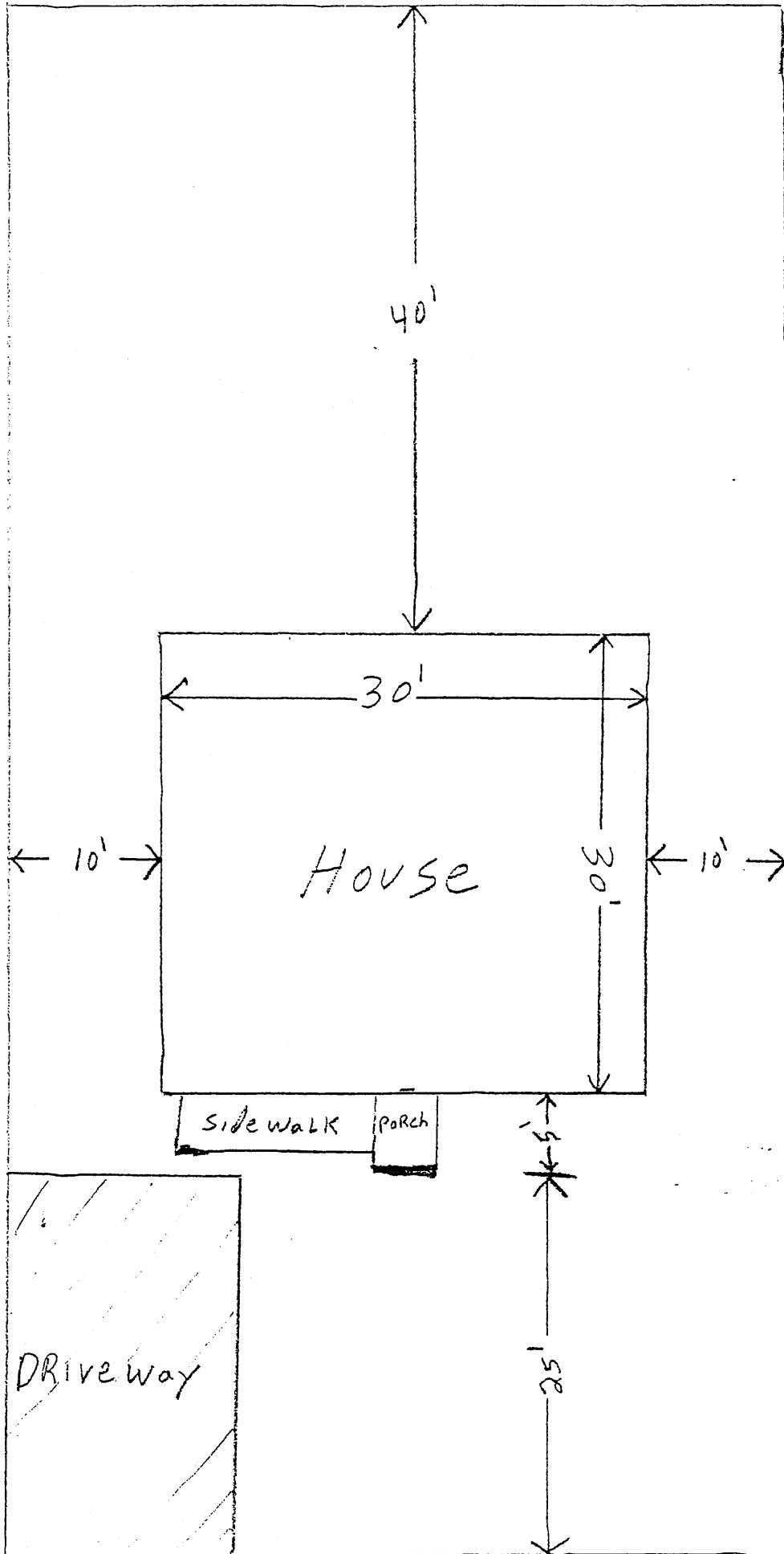


N/F
DAVID & VIRGINIA ROBERTSON
TAX #4300708
D.B. 1330, PG. 719

N/F
NANCY G. DEARING
TAX #4300721
D.B. 1001, PG. 1358

GARDEN CITY BOULEVARD, S.E. 30' R/W



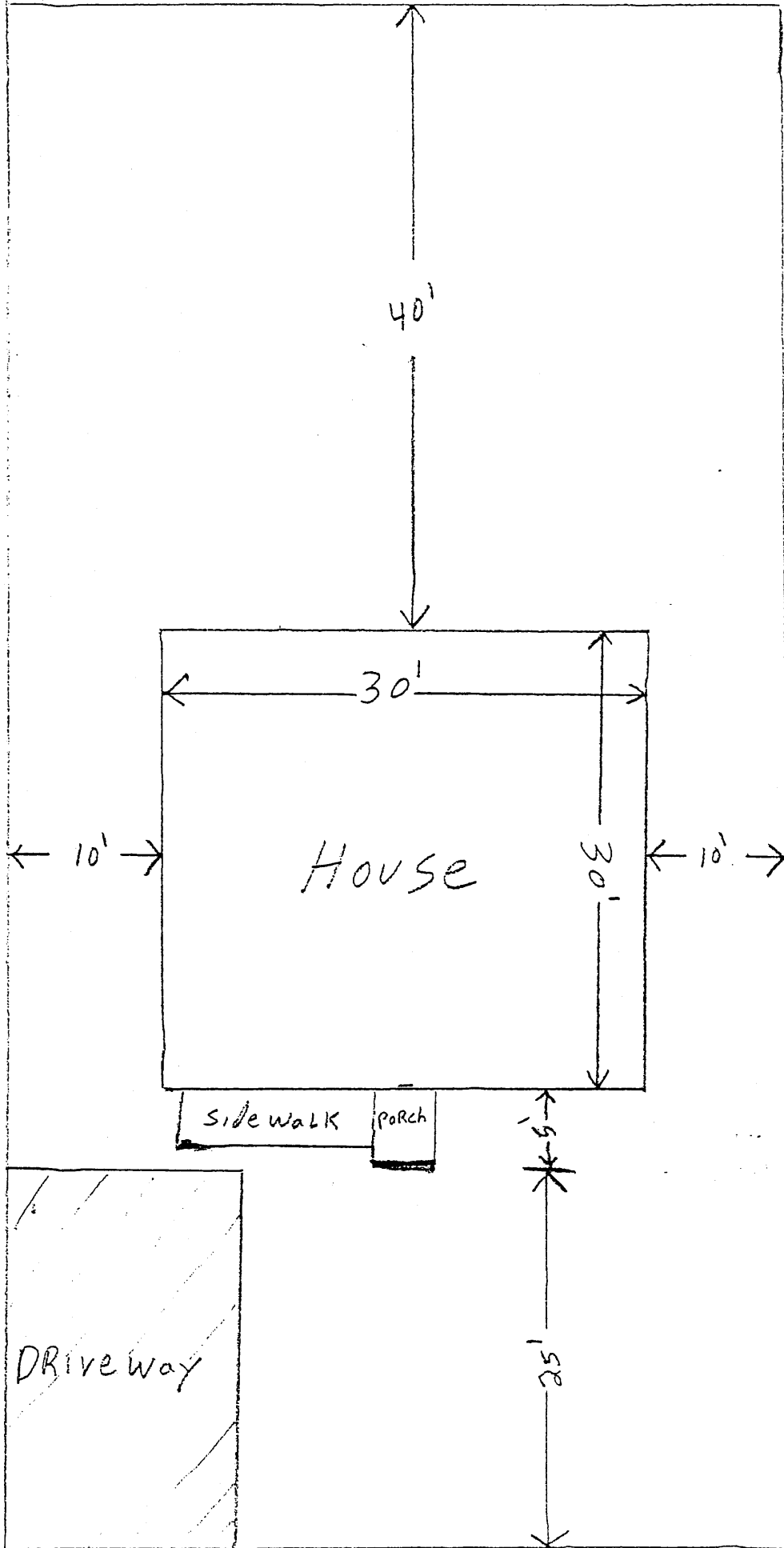


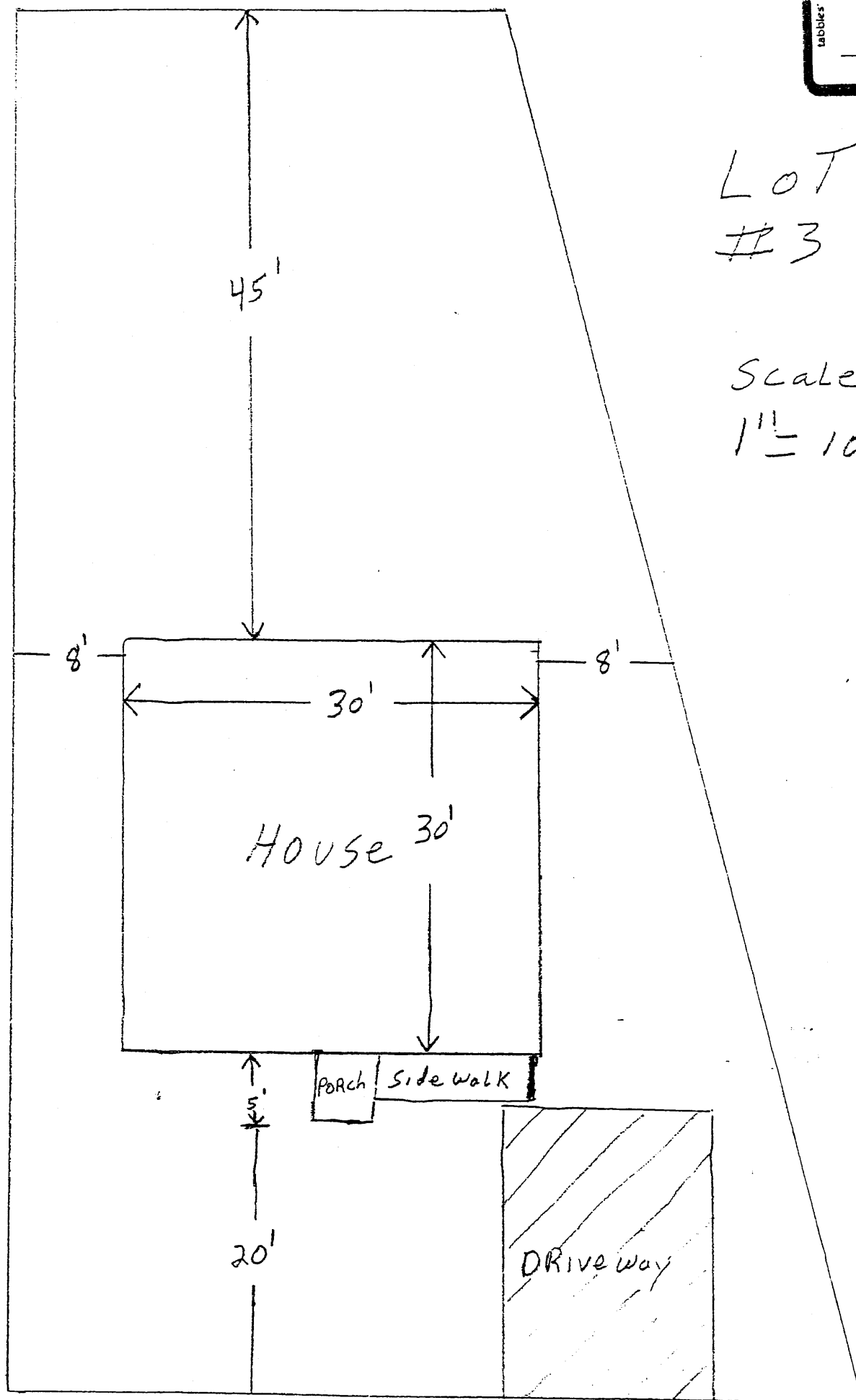
LOT
1

Scale
1" = 10'

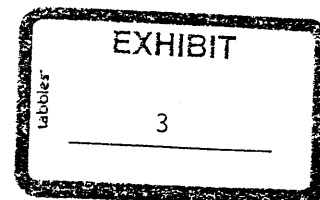
LOT
2

Scale
1" = 10'



LOT
#3Scale
1" = 10'

m. l. n. o. -



ADJOINING PROPERTY OWNER LISTING

Tax Map No.: 4300722
Yellow Mountain Road, S.E.

Applicant/Owner: Farren Webb and Lynette Webb

ADJOINING PROPERTY OWNERS

This list as follows are those property owners who own property beside, behind or across the street from the subject property noted above:

CITY OF ROANOKE

<u>Official Tax Number / Property Address</u>	<u>Owner's Name and Mailing Address</u>
4300609 3755 Melcher Street, S.E.	David M. Guilliams, et al. 3755 Melcher Street, S.E. Roanoke, VA 24014
4300611 3712 Yellow Mountain Road, S.E.	Melynda Surface 3624 Yellow Mountain Road, S.E. Roanoke, VA 24014
4300708 3762 Melcher Street, S.E.	David M. and Virginia S. Robertson 3752 Melcher Avenue, S.E. Roanoke, VA 24014
4301005 3711 Yellow Mountain Road, S.E.	Frances V. Manuel 3711 Yellow Mountain Road, S.E. Roanoke, VA 24014
4301101 3741 Garden City Blvd., S.E.	Garden City School 215 Church Avenue, S.W., Room 250 Roanoke, VA 24011

551
12/11/03

IN THE COUNCIL OF THE CITY OF ROANOKE, VIRGINIA,

AN ORDINANCE to amend §36.1-3, Code of the City of Roanoke (1979), as amended, and Sheet No. 430, Sectional 1976 Zone Map, City of Roanoke, to rezone certain property within the City, subject to certain conditions proffered by the applicant; and dispensing with the second reading by title of this ordinance.

WHEREAS, Farren and Lynette Webb have made application to the Council of the City of Roanoke to have the hereinafter described property rezoned from CN, Neighborhood Commercial District, to RM-1, Residential Multi-family, Low Density District, subject to certain conditions proffered by the applicant;

WHEREAS, the City Planning Commission, which after giving proper notice to all concerned as required by §36.1-693, Code of the City of Roanoke (1979), as amended, and after conducting a public hearing on the matter, has made its recommendation to Council;

WHEREAS, a public hearing was held by City Council on such application at its meeting on December 15, 2003, after due and timely notice thereof as required by §36.1-693, Code of the City of Roanoke (1979), as amended, at which hearing all parties in interest and citizens were given an opportunity to be heard, both for and against the proposed rezoning; and

WHEREAS, this Council, after considering the aforesaid application, the recommendation made to the Council by the Planning Commission, the City's

Comprehensive Plan, and the matters presented at the public hearing, is of the opinion that the hereinafter described property should be rezoned as herein provided.

THEREFORE, BE IT ORDAINED by the Council of the City of Roanoke that:

1. Section 36.1-3, Code of the City of Roanoke (1979), as amended, and Sheet No. 430 of the Sectional 1976 Zone Map, City of Roanoke, be amended in the following particular manner and no other:

That parcel of land located at the corner of Yellow Mountain Road and Melcher Street, S.E., containing 0.379 acre, more or less, and designated on Sheet No. 430 of the Sectional 1976 Zone Map, City of Roanoke, as Official Tax No. 4300722, be, and is hereby rezoned from CN, Neighborhood Commercial District, to RM-1, Residential Multi-family, Low Density District, subject to the proffers contained in the Petition filed in the Office of the City Clerk on November 6, 2003, and that Sheet No. 430 of the 1976 Zone Map be changed in this respect.

2. Pursuant to the provisions of Section 12 of the City Charter, the second reading of this ordinance by title is hereby dispensed with.

ATTEST:

City Clerk.



CITY OF ROANOKE
PLANNING BUILDING AND DEVELOPMENT

215 Church Avenue, S.W., Room 166
Roanoke, Virginia 24011
Telephone: (540) 853-1730 Fax: (540) 853-1230
E-mail: planning@ci.roanoke.va.us

Architectural Review Board
Board of Zoning Appeals
Planning Commission

December 15, 2003

Honorable Ralph K. Smith, Mayor
Honorable C. Nelson Harris, Vice Mayor
Honorable William D. Bestpitch, Council Member
Honorable M. Rupert Cutler, Council Member
Honorable Alfred T. Dowe, Jr., Council Member
Honorable Beverly T. Fitzpatrick, Jr., Council Member
Honorable Linda F. Wyatt, Council Member

Dear Mayor Smith and Members of City Council:

Subject: Request from Super D Holdings, L.L.C., represented by Edward A. Natt, attorney, that property identified as Tax Map No. 4112708 (414 Ninth Street), Tax Map No. 4112709 (416 Ninth Street, S.E.), Tax Map No. 4112710 (418 Ninth Street, S.E.) and Tax Map No. 4112711 (420 Ninth Street, S.E.), be rezoned from C-2, General Commercial District, to CN, Neighborhood Commercial District, such rezoning to be subject to certain conditions.

Planning Commission Action:

Planning Commission public hearing was held on Thursday, November 20, 2003. Motion was made, duly seconded and approved (6-0, Mr. Chrisman absent) to recommend approval of the rezoning sought by the amended petition. A roll call vote was taken and approved 6-0 (Mr. Chrisman absent).

Second Amended Petition Subsequent to Planning Commission Action:

Subsequent to Planning Commission action, a Second Amended Petition was filed on November 26, 2003, which includes one proffered use not considered by the Planning Commission during its public hearing. A report on the Second Amended Petition is attached to this report.

Background:

A Petition to Rezone the four subject properties was filed on September 30, 2003. A First Amended Petition, with conditions, was filed on November 7, 2003, and was considered by the Planning Commission at a hearing on November 20, 2003. Conditions proffered by the petitioner in the First Amended Petition are as follows:

- (a) The building will face Ninth Street.
- (b) There will be no parking between the building and Ninth Street.
- (c) There will be a twenty percent (20%) transparency on the façade of the building facing Ninth Street.

The vacant subject parcels are in the 400 block of Ninth Street in the Belmont neighborhood, with Tax Map Number 4112711 (420 Ninth Street) being located at the corner of Ninth Street and Dale Avenue, S.E. The four contiguous parcels cover 13,443 square feet and have 130 feet of frontage along Ninth Street and 64 feet of frontage along Dale Avenue.

Considerations of the First Amended Petition:

The designated village center extends along Ninth Street from Tazewell Avenue to Highland Avenue. Zoning around the subject parcels includes C-2, General Commercial District to the north and south, and RM-2, Residential Multi-family Medium Density District to the east and west. The land uses adjacent to the subject parcels include single-family homes to the east, an office building to the south, a church parking lot to the west, and an automobile repair establishment to the north.

The request to rezone the subject properties from C-2, General Commercial District, to CN, Neighborhood Commercial District, constitutes a down-zoning and would limit permitted use of the properties to neighborhood-oriented uses that are consistent with the village center concept and designation along Ninth Street. The petitioner's request would permit the establishment of a neighborhood-oriented retail commercial building on the property, with no off-street parking requirement. The proffered conditions of the First Amended Petition, which include the orientation of the building to Ninth Street, the provision of transparency on the Ninth Street façade of the building, and the preclusion of parking between the building and Ninth Street are consistent with the following village center recommendations and design principles as outlined in **Vision 2001-2020**, the City's comprehensive plan:

- Village Centers are characterized by a mixture of high-density uses, including neighborhood-oriented retail, office, and residential uses. (p. 91-92)
- Parking should be located on the street or to the rear or side of principal buildings. (p. 91)
- Buildings should be set close to the street with ground floor facades that emphasize pedestrian activity. (p. 91)

The future land use map of the *Belmont-Fallon Neighborhood Plan*, adopted by City Council in January 2003, and attached to this report, recommends village center uses for the 400 block of Ninth Street. In addition, the neighborhood plan further states that “village centers contain basic services such as convenience stores, drug stores, auto parts stores, and hardware” (p.15).

During the Planning Commission public hearing, Edward A. Natt, attorney, presented the request on behalf of the petitioner. Nancy Snodgrass, City Planner, presented the staff report, recommending approval of the request given its consistency with the future land use recommendations of the *Belmont-Fallon Neighborhood Plan* and the proffered conditions’ compliance with the village center design principles set forth in *Vision 2001-2020*. There was no public comment during the hearing.

Planning Commission discussion centered on the following:

- Whether or not the proposed development would include a drive-through facility (With the petitioner acknowledging plans for such drive-through for purposes of the pharmacy component of the proposed use, the Commission asked if the petitioner would be willing to proffer that such drive-through would be limited to pharmacy use. The petitioner agreed to file a Second Amended Petition limiting a drive-through facility to pharmacy use only.)
- Whether or not the petitioner would be willing to proffer limiting use of the property to “neighborhood retail establishment” as set forth in paragraph 22 of the Commercial Neighborhood District (The petitioner agreed to file a Second Amended Petition limiting use of the subject properties to “neighborhood retail establishments”.)
- Clarification of the condition regarding “transparency” on the façade of the building facing Ninth Street (The petitioner agreed to file a Second Amended Petition clarifying the transparency condition including referencing the “front” façade of the building facing Ninth Street.)

Planning Commission Recommendation:

The Planning Commission recommends City Council approve the rezoning request, as amended, to include limiting of any drive-through facility to pharmacy use only, limiting use of the property to "neighborhood retail establishments" and clarification of transparency on the front façade of the building. The application of CN, Neighborhood Commercial District to the four subject properties is consistent with the future land use recommendations of the *Belmont-Fallon Neighborhood Plan*, and the proffered conditions comply with the village center design principles set forth in **Vision 2001-2020**.

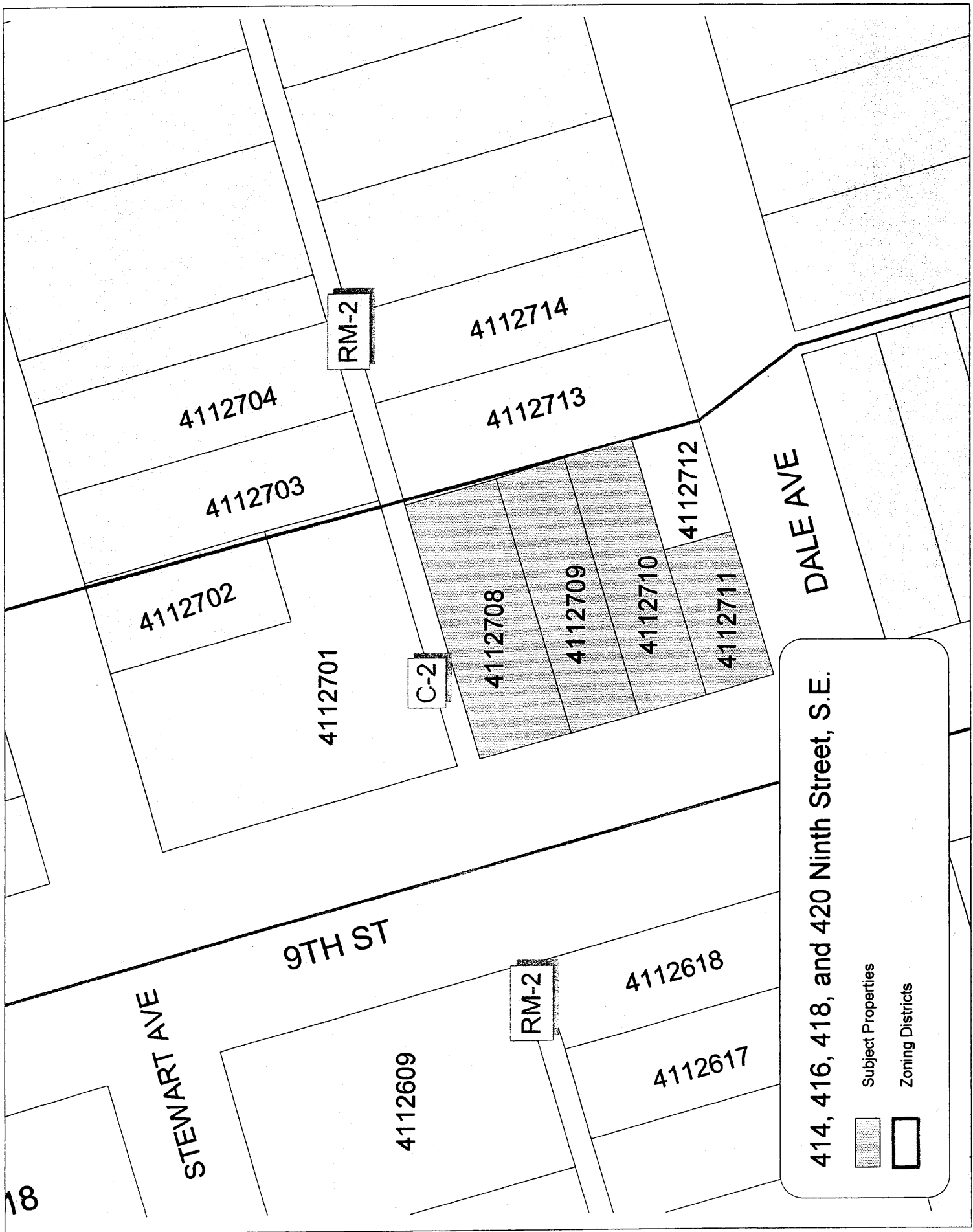
Second Amended Petition Filed Subsequent to Planning Commission Action:

Following Planning Commission action, a Second Amended Petition was filed on November 26, 2003. Said Second Amended Petition includes those proffered conditions considered and recommended for approval by the Commission, but also includes one additional proffered use not considered by the Planning Commission in during its public hearing. A report on the Second Amended Petition is attached to this report.

Respectfully submitted,


Robert B. Manetta, Chairman ^{AST}
Roanoke City Planning Commission

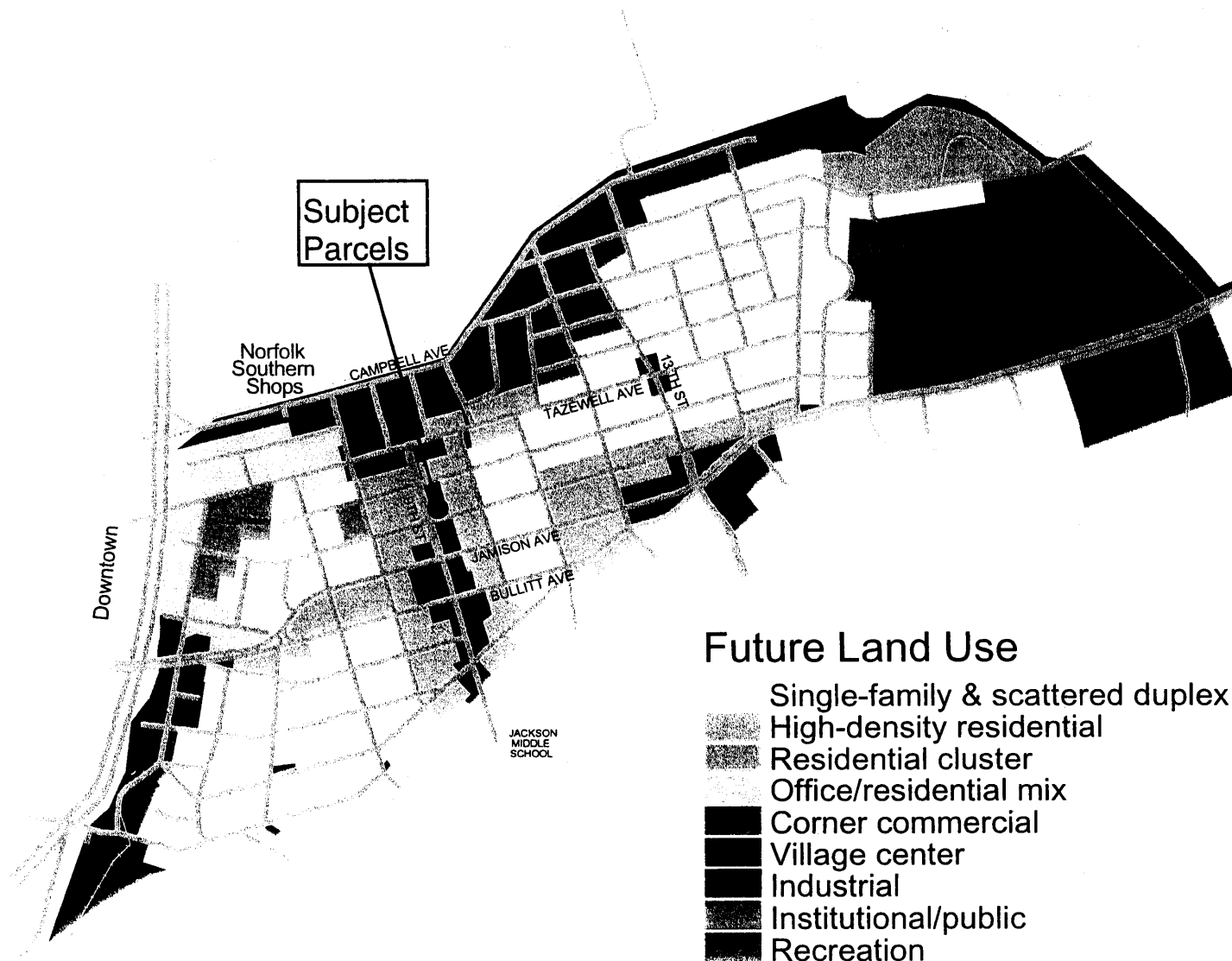
cc: Darlene L. Burcham, City Manager
Rolanda Russell, Assistant City Manager for Community Development
William M. Hackworth, City Attorney
Steven J. Talevi, Assistant City Attorney
Edward A. Natt, Attorney for the Petitioner



414, 416, 418, and 420 Ninth Street, S.E.

Subject Properties

Zoning Districts



Source: Belmont/Fallon Neighborhood Plan; Adopted by City Council January 2003

SECOND AMENDED PETITION TO REZONE

IN THE COUNCIL OF THE CITY OF ROANOKE, VIRGINIA

IN RE:

Rezoning of property identified as Tax Map No. 4112708 (414 Ninth Street, S.E.), Tax Map No. 4112709 (416 Ninth Street, S.E.), Tax Map No. 4112710 (418 Ninth Street, S.E.) and Tax Map No. 4112711 (420 Ninth Street, S.E.), from C-2, General Commercial District, to CN, Neighborhood Commercial District.

TO THE HONORABLE MAYOR AND MEMBERS OF THE COUNCIL OF THE CITY OF ROANOKE:

The Petitioner, SUPER D HOLDINGS, L.L.C., is the owner of property in the City of Roanoke, situate at 414 Ninth Street, S.E. (Tax Map No. 4112708), 416 Ninth Street, S.E. (Tax Map No. 4112709), 418 Ninth Street, S.E. (Tax Map No. 4112710) and 420 Ninth Street, S.E. (Tax Map No. 4112711), said tract being currently zoned C-2, General Commercial District. A map of the property to be rezoned is attached as Exhibit 1. A concept plan is attached as Exhibit 2-A and Exhibit 2-B.

Pursuant to Section 36.1-690, Code of the City of Roanoke (1979), as amended, the Petitioner requests that property identified as Tax Map Nos. 4112708, 4112709, 4112710 and 4112711, be rezoned from C-2, General Commercial District, to CN, Neighborhood Commercial District, for the purpose of locating a retail commercial building on the property.

The Petitioner believes the rezoning of said tracts of land will further the intent and purposes of the City's Zoning Ordinance and its comprehensive plan, in that it will enable said parcels of land located on Ninth Street, S.E. to be used for neighborhood commercial purposes as other properties in the area are so utilized.

Attached as Exhibit 3 are the names, addresses and tax numbers of the owners

of all lots or property immediately adjacent to and immediately across a street or road from the property to be rezoned.

The Petitioner voluntarily submits the following proffers to be included as a part of the rezoning request:

- (a) The building will face Ninth Street.
- (b) There will be no parking between the building and Ninth Street.
- (c) At least twenty percent (20%) of the front facade of the building facing Ninth Street shall consist of plate glass.
- (d) Use of the property will be limited to neighborhood retail establishments as set forth under Paragraph 22 of the Neighborhood Commercial District and restaurants not to exceed twenty-five (25) seats as set forth under Paragraph 20 of the Neighborhood Commercial District, provided that a drive-thru may be permitted for pharmacy use only.

WHEREFORE, the Petitioner requests that the above-described property be rezoned as requested in accordance with the provisions of the Zoning Ordinance of the City of Roanoke.

Respectfully submitted this 24th day of November, 2003.

SUPER D HOLDINGS, LLC

BY

ITS


MEMBER

Edward A. Natt, Esq.
OSTERHOUDT, PRILLAMAN, NATT, HELSCHER,
YOST, MAXWELL & FERGUSON, P.L.C.
P. O. Box 20487
Roanoke, VA 24018-0049
Phone: (540) 725-8180
Fax: (540) 772-0126
VSB #1104

150 ft

EXHIBIT

2-A

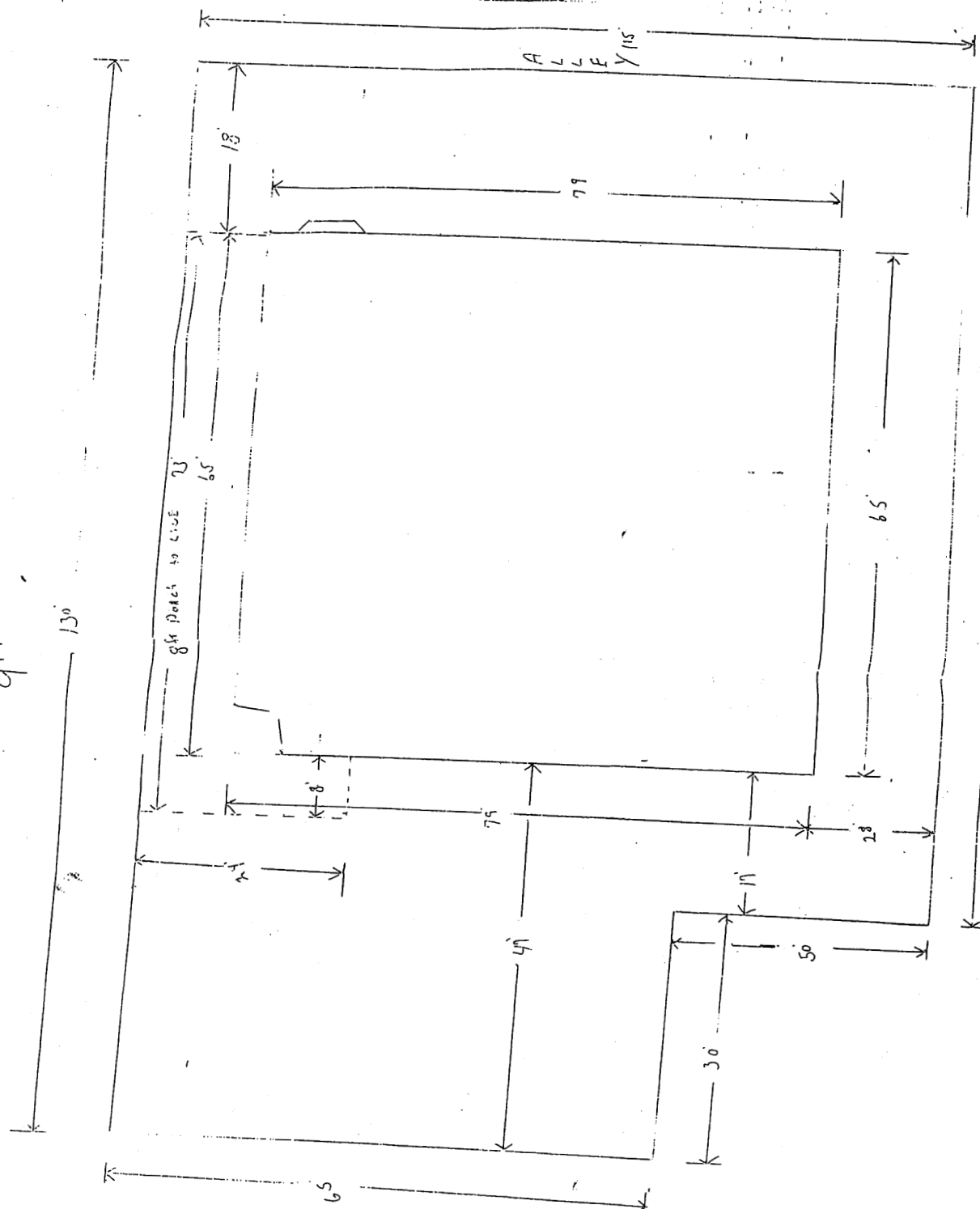


130.

15

511人

DALE



ADJOINING PROPERTY OWNER LISTING

Tax Map No.: 4112708 (414 Ninth Street, S.E.)
4112709 (416 Ninth Street, S.E.)
4112710 (418 Ninth Street, S.E.)
4112711 (420 Ninth Street, S.E.)

Applicant/Owner: Super D Holdings, LLC

ADJOINING PROPERTY OWNERS

This list as follows are those property owners who own property beside, behind or across the street from the subject property noted above:

CITY OF ROANOKE

<u>Official Tax Number / Property Address</u>	<u>Owner's Name and Mailing Address</u>
4112609 825 Stewart Avenue, S.E.	Belmont Baptist Church 819 Stewart Avenue, S.E. Roanoke, VA 24013
4112618 Dale Avenue, S.E.	Trustees, Belmont Baptist Church 819 Stewart Avenue, S.E. Roanoke, VA 24013
4112701 404 Ninth Street, S.E.	Joseph Wayne Ellis, Sr. 1019 Clearview Drive Vinton, VA 24179
4112702 907 Steward Avenue, S.E.	Ollie Oneida Blankenship 3651 Bunker Hill Drive, S.W. Roanoke, VA 24018
4112712 906 Dale Avenue, S.E.	Shelby C. Hylton 906 Dale Avenue, S.E. Roanoke, VA 24013
4112713 912 Dale Avenue, S.E.	David W. and Mamie L. Vanlew 912 Dale Avenue, S.E. Roanoke, VA 24013

CITY OF ROANOKE

Official Tax Number /
Property Address

4120110
Dale Avenue, S.E.

4120201
907 Dale Avenue, S.E.

Owner's Name
and Mailing Address

Betty J. Knapp
829 Dale Avenue, S.E.
Roanoke, VA 24013

Donald W. Webber
200 Twin Oaks Road
Wirtz, VA 224185



CITY OF ROANOKE
PLANNING BUILDING AND DEVELOPMENT

215 Church Avenue, S.W., Room 166
Roanoke, Virginia 24011
Telephone: (540) 853-1730 Fax: (540) 853-1230
E-mail: planning@ci.roanoke.va.us

Architectural Review Board
Board of Zoning Appeals
Planning Commission

December 15, 2003

Honorable Ralph K. Smith, Mayor
Honorable C. Nelson Harris, Vice Mayor
Honorable William D. Bestpitch, Council Member
Honorable M. Rupert Cutler, Council Member
Honorable Alfred T. Dowe, Jr., Council Member
Honorable Beverly T. Fitzpatrick, Jr., Council Member
Honorable Linda F. Wyatt, Council Member

Dear Mayor Smith and Members of City Council:

Subject: Request from Super D Holdings, L.L.C., represented by Edward A. Natt, attorney, that property identified as Tax Map No. 4112708 (414 Ninth Street), Tax Map No. 4112709 (416 Ninth Street, S.E.), Tax Map No. 4112710 (418 Ninth Street, S.E.) and Tax Map No. 4112711 (420 Ninth Street, S.E.), be rezoned from C-2, General Commercial District, to CN, Neighborhood Commercial District, such rezoning to be subject to certain conditions.

Second Amended Petition Subsequent to Planning Commission Action:

Subsequent to Planning Commission action on November 20, 2003, a Second Amended Petition was filed on November 26, 2003, which includes one additional proffered use not considered by the Planning Commission during its public hearing.

Background:

A Petition to Rezone the four subject properties was filed on September 30, 2003. A First Amended Petition, with conditions, was filed on November 7, 2003, and was considered by the Planning Commission at a hearing on November 20, 2003. A Second Amended Petition, with conditions, was filed on November 26, 2003. Conditions proffered by the petitioner in the Second Amended Petition are as follows:

- (a) The building will face Ninth Street.

- (b) There will be no parking between the building and Ninth Street.
- (c) At least twenty percent (20%) of the front façade of the building facing Ninth Street shall consist of plate glass.
- (d) Use of the property will be limited to neighborhood retail establishments as set forth under Paragraph 22 of the Neighborhood Commercial District and restaurants not to exceed twenty-five (25) seats as set forth under Paragraph 20 of the Neighborhood Commercial District, provided that a drive-thru may be permitted for pharmacy use only.

Considerations:

The Second Amended Petition includes amended and additional proffered conditions as set forth by the petitioner and recommended for approval by the Planning Commission on November 20, 2003. Those include clarification of “transparency” on the front façade of the building, limitation of any drive-through facility to pharmacy use, and limitation of use of the subject properties to “neighborhood retail establishments” as set forth in Section 36.1-164(22) of the Zoning Ordinance, which sets out the permitted uses in the Neighborhood Commercial District.

In order to further define and more clearly reflect the intended use of the subject properties, proposed to include a pharmacy, retail sales and a sit-down deli component, the Second Amended Petition proffers restaurants, not to exceed twenty-five (25) seats, in addition to “neighborhood retail” as an additional proffered use of the property. This specific proffer was not considered by the Commission during its public hearing.

Given that the request to rezone the property from C-2, General Commercial, to CN, Neighborhood Commercial, is a down-zoning and is consistent with the future land use recommendations of the *Belmont-Fallon Neighborhood Plan*, and given that the permitted uses of the CN District are consistent with the village center concept of neighborhood-oriented, pedestrian-friendly commercial uses, the request to include restaurants as a proffered use, particularly with a seat limitation, is supportable.

Recommendation:

City Council should approve the rezoning request as stated in the Second Amended Petition, including a proffer permitting a restaurant not to exceed 25 seats.

Respectfully submitted,

A handwritten signature in black ink that reads "R. Brian Townsend". The signature is written in a cursive, flowing style.

R. Brian Townsend, Agent
City Planning Commission

RBT:NS:mpf

Attachment

cc: Darlene L. Burcham, City Manager
Rolanda Russell, Assistant City Manager for Community Development
William M. Hackworth, City Attorney
Steven J. Talevi, Assistant City Attorney
Edward A. Natt, Attorney for the petitioner

IN THE COUNCIL OF THE CITY OF ROANOKE, VIRGINIA,

AN ORDINANCE to amend §36.1-3, Code of the City of Roanoke (1979), as amended, and Sheet No. 411, Sectional 1976 Zone Map, City of Roanoke, to rezone certain property within the City, subject to certain conditions proffered by the applicant; and dispensing with the second reading by title of this ordinance.

WHEREAS, Super D Holdings, L.L.C. has made application to the Council of the City of Roanoke to have the hereinafter described property rezoned from C-2, General Commercial District, to CN, Neighborhood Commercial District, subject to certain conditions proffered by the applicant;

WHEREAS, the City Planning Commission, which after giving proper notice to all concerned as required by §36.1-693, Code of the City of Roanoke (1979), as amended, and after conducting a public hearing on the matter, has made its recommendation to Council;

WHEREAS, a public hearing was held by City Council on such application at its meeting on December 15, 2003, after due and timely notice thereof as required by §36.1-693, Code of the City of Roanoke (1979), as amended, at which hearing all parties in interest and citizens were given an opportunity to be heard, both for and against the proposed rezoning; and

WHEREAS, this Council, after considering the aforesaid application, the recommendation made to the Council by the Planning Commission, the City's

Comprehensive Plan, and the matters presented at the public hearing, is of the opinion that the hereinafter described property should be rezoned as herein provided.

THEREFORE, BE IT ORDAINED by the Council of the City of Roanoke that:

1. Section 36.1-3, Code of the City of Roanoke (1979), as amended, and Sheet No. 411 of the Sectional 1976 Zone Map, City of Roanoke, be amended in the following particular manner and no other:

That property located at 414, 416, 418 and 420 Ninth Street, S.E., and designated on Sheet No. 411 of the Sectional 1976 Zone Map, City of Roanoke, as Official Tax Nos. 4112708 through 4112711, inclusive, be, and is hereby, rezoned from C-2, General Commercial District, to CN, Neighborhood Commercial District, subject to the proffers contained in the Second Amended Petition filed in the Office of the City Clerk on November 26, 2003, and that Sheet No. 411 of the 1976 Zone Map be changed in this respect.

2. Pursuant to the provisions of Section 12 of the City Charter, the second reading of this ordinance by title is hereby dispensed with.

ATTEST:

City Clerk.



CITY OF ROANOKE
PLANNING BUILDING AND DEVELOPMENT

215 Church Avenue, S.W., Room 166
 Roanoke, Virginia 24011
 Telephone: (540) 853-1730 Fax: (540) 853-1230
 E-mail: planning@ci.roanoke.va.us

Architectural Review Board
 Board of Zoning Appeals
 Planning Commission

December 15, 2003

Honorable Ralph K. Smith, Mayor
 Honorable C. Nelson Harris, Vice Mayor
 Honorable William D. Bestpitch, Council Member
 Honorable M. Rupert Cutler, Council Member
 Honorable Alfred T. Dowe, Jr., Council Member
 Honorable Beverly T. Fitzpatrick, Jr., Council Member
 Honorable Linda F. Wyatt, Council Member

Dear Mayor Smith and Members of City Council:

Subject: Rezoning of three tracts of land located at the intersection of Stewart Avenue, S.E. and 9th Street, S.E., identified as official Tax Map Numbers 4112016, 4112017, and 4112018 (one parcel having a street address of 818 Stewart Avenue, S.E.), from RM-2, Residential Multi-Family, Medium Density District, to C-2, General Commercial District, such rezoning to be subject to certain conditions.

Planning Commission Action:

Planning Commission public hearing was held on Thursday, November 20, 2003. A roll call vote was taken on the rezoning request and the vote failed by a vote of 2-4 (Messrs. Butler and Rife voting for the request, Messrs. Manetta, Scholz and Williams and Ms. Prince voting against the request, Mr. Chrisman absent).

Background:

The petitioner requests the rezoning of three vacant parcels in the 800 block of Stewart Avenue, S.E., for the purpose of permitting an automobile repair establishment on the property. Tax map number 4112018 is located on the corner of Stewart Avenue and 9th Street. Tax map numbers 4112017 and 4112016 front on Stewart Avenue. The three parcels total 20,817 square feet and have approximately 159 feet of street frontage along Stewart Avenue and 129 feet on 9th Street.

The three subject parcels are currently zoned RM-2, Residential Multi-family, Medium Density District. The petitioner requests that the subject parcels be rezoned to C-2, General Commercial District, subject to the following conditions:

1. The property will be developed in substantial conformity with the Development Plan dated September 22, 2003, and attached to this amended petition as Exhibit B, subject to any changes required by the City during the Comprehensive Site Plan review.
2. All lighting on the property shall consist of fixtures with shields designed to minimize illumination of any off-site property.
3. This property shall be used only as an automobile repair establishment except painting and body shops.
4. There shall be no freestanding signs on the subject property.

Considerations:

The subject parcels are located in a residential block of Stewart Avenue, including both block faces, and are adjacent to the village center which extends along 9th Street from Tazewell Avenue to Highland Avenue. Land uses around the subject parcels include single-family residential, multi-family residential, institutional and commercial uses. The surrounding land uses and zoning districts include:

- A multi-family dwelling directly adjacent to and to the west of the subject properties along Stewart Avenue, zoned RM-2, with the balance of the Stewart Avenue block face also zoned RM-2 and including a vacant lot, one single-family dwelling and two multifamily dwellings;
- A church and associated surface parking lots directly across Stewart Avenue from the subject parcels, zoned RM-2, Residential Multi-family Medium Density District;
- A single-family dwelling and a restaurant across the alley and to the north of the subject parcels, fronting on Tazewell Avenue, zoned C-2, General Commercial District; and
- A small vacant lot and a single-family home across 9th Street from the subject properties to the east, zoned C-2. The single-family home, located on the northeast corner of 9th Street and Stewart Avenue, is oriented towards Stewart Avenue.

The request to rezone the subject parcels to C-2, General Commercial, with conditions, is inconsistent with the following statements and recommended actions of **Vision 2001-2020**, the City's Comprehensive Plan:

- **Infill development:** *Encourage quality infill development that reflects the character of the neighborhood (NH A29).* Infill development consisting of an automobile repair establishment is neither consistent with the existing residential structures along the north side of the 800 block of Stewart Avenue nor compatible with neighborhood-oriented retail, office, or residential uses encouraged in the village center along 9th Street.
- **Higher-density residential development:** *Higher-density residential development should be concentrated within and immediately adjacent to village centers (p.91).* The future land use map of the *Belmont-Fallon Neighborhood Plan*, adopted by City Council in January 2003, recommends the future land use for the 800 block of Stewart Avenue as high-density residential development. As one of the two land use components of a village center, the high-density residential use(s) would complement the neighborhood commercial development currently located and encouraged to develop along 9th Street. (The *Belmont-Fallon Neighborhood Plan* future land use map delineating the subject properties is attached to this report.)

As set forth in **Vision 2001-2020**, the commercial component of a village center consists of neighborhood-serving, pedestrian-oriented activities, such as CN uses, not C-2, General Commercial as requested by this petition. Furthermore, the C-2 request of this petition separates itself even further from the CN village center concept by proffering the use of the property to be an automobile repair establishment, a use also permitted in LM and HM because of its inherent character and potential adverse impacts on neighboring residential properties.

A petition containing 40 signatures, as well as eight letters in support of the request and one letter in opposition to the petitioner's request were received. The letters of support focused on the dependable, reputable and clean operation of the petitioner's existing transmission shop located at 10th Street and Tazewell Avenue, S.E., and the nearby businesses on the 9th Street corridor. The letter of opposition emphasized inconsistencies of the request with the *Belmont-Fallon Neighborhood Plan*, including the recommendations for future land uses and minimizing disruption of the existing neighborhood, and cited the availability of vacant buildings in Southeast currently zoned to permit automobile repair. The letter also referenced the City's involvement two blocks away from the subject property in the Southeast by Design pilot project for revitalization of the neighborhood.

During the Planning Commission public hearing, Maryellen F. Goodlatte, attorney, presented the request on behalf of the petitioner. Nancy Snodgrass, City Planner, presented the staff report, recommending denial of the request because of its inconsistencies with *Vision 2001-2020* and the adopted *Belmont-Fallon Neighborhood Plan*. The staff report included the submission of photos of the existing residential structures in the 800 block of Stewart Avenue and a map

delineating existing C-2 and LM properties in Southeast, where automobile repair is permitted. (The C-2 and LM properties map is attached to this report.)

The Planning Commission opened the meeting for public comment.

- Mr. Richard Nichols, representing the Southeast Action Forum, expressed his and the Southeast Action Forum's support for the petition.
 - The petitioner's existing transmission shop in Southeast is an asset to the neighborhood, and Southeast needs to retain its businesses, especially those that make a positive contribution to the neighborhood.
 - The subject property has been vacant for a number of years.
- Ms. Christine Proffitt, 424 Bullitt Avenue S.E., spoke in opposition to the petition.
 - The request is inconsistent with the *Belmont-Fallon Neighborhood Plan*, including the plan's direction for minimizing disruption of existing neighborhoods and the plan's proposed use of the property at 9th Street & Tazewell Avenue for an attractive building or a small park.
 - There are numerous vacant buildings in Southeast already zoned to permit automobile repair.
- Ms. Kathy Hill, Riverland Alert Neighbors, expressed opposition to the request, stating that the potential need for a privacy fence and dogs for the protection overnight of vehicles awaiting service do not lessen the impacts of noise and appearance of the use proffered in this petition.

Planning Commission discussion centered on the following issues:

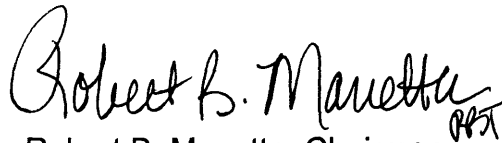
- The petitioner's consideration of properties in Southeast that are already zoned to permit automobile repair establishments (C-2, LM, HM)
- Concerns that a metal-shell building may be non-contributory in terms of improvement to the neighborhood
- The need to focus on the land use issue and not the proprietor in order to avoid potentially noxious uses that would adversely impact a residential neighborhood (concerns that proprietors come and go, but the zoning designation and proffered uses stay with the land)
- Whether or not an automobile repair establishment is consistent with the "village center" concept and the "village center's" pedestrian-friendly character

Recommendation:

The Planning Commission recommends that Council deny the requested rezoning. Given the standards for infill and village center development set forth in *Vision 2001-2020* and the future land use recommendations of the *Belmont-*

Fallon Neighborhood Plan, the Commission cannot support the request for rezoning the subject parcels to C-2, General Commercial, with conditions.

Respectfully submitted,

A handwritten signature in black ink, reading "Robert B. Manetta". The signature is fluid and cursive, with a small "RBT" monogram at the end.

Robert B. Manetta, Chairman
Roanoke City Planning Commission

attachments

cc: Darlene L. Burcham, City Manager
Rolanda Russell, Assistant City Manager for Community Development
William M. Hackworth, City Attorney
Steven J. Talevi, Assistant City Attorney
Maryellen F. Goodlatte, Attorney for the Petitioner

TAZEWELL AVE

9TH ST

4112102

4112101

C-2

4112009

4112008

4112007

4112006

4112005

C-2

4112113

4112112

4112110

4112111

STEWART AVE

4112702

4112701

C-2

9TH ST

4112609

4112608

4112607

RM-2

4112708

4112709

RM-2

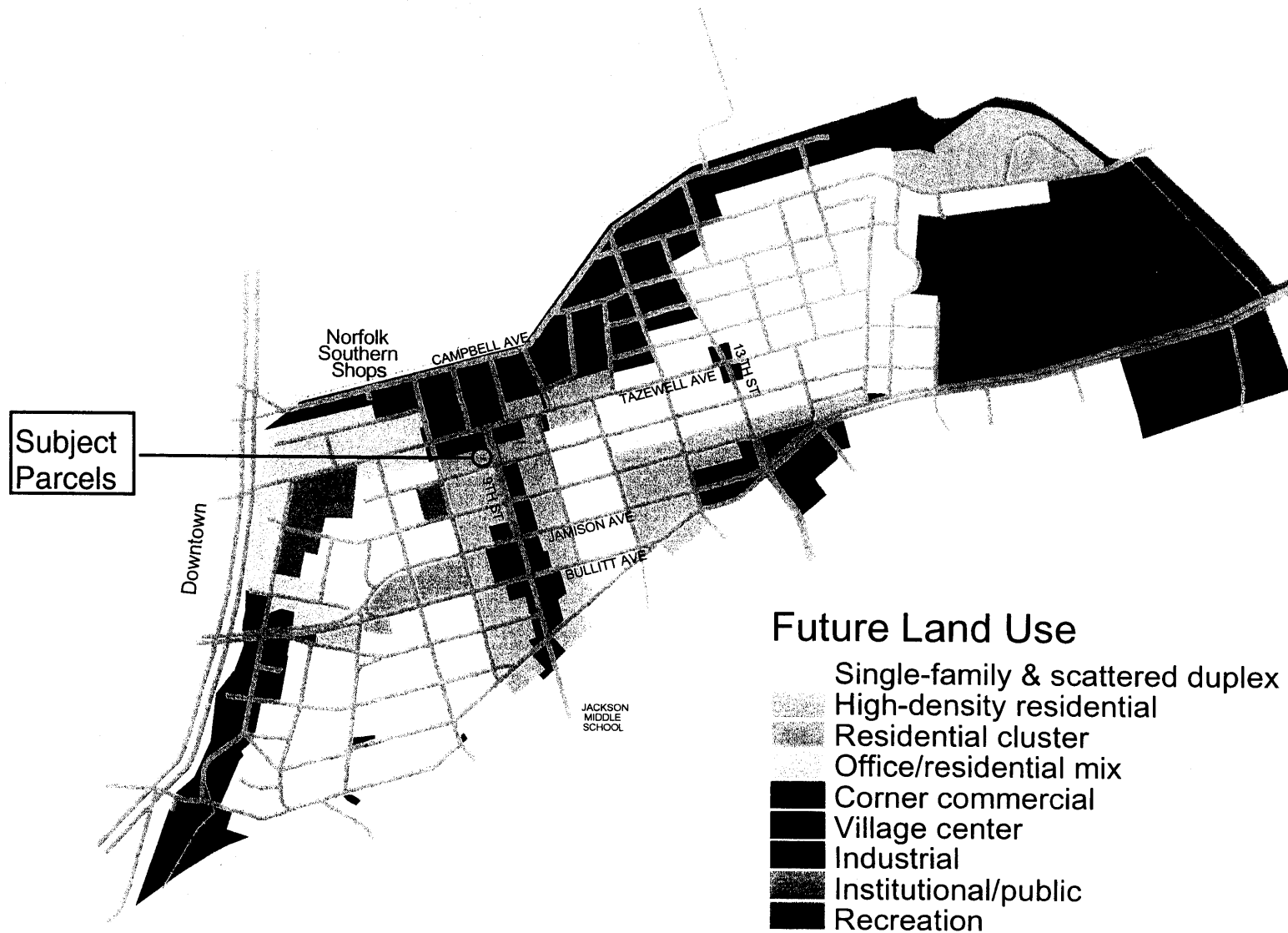
Stewart and Ninth Street, S.E.



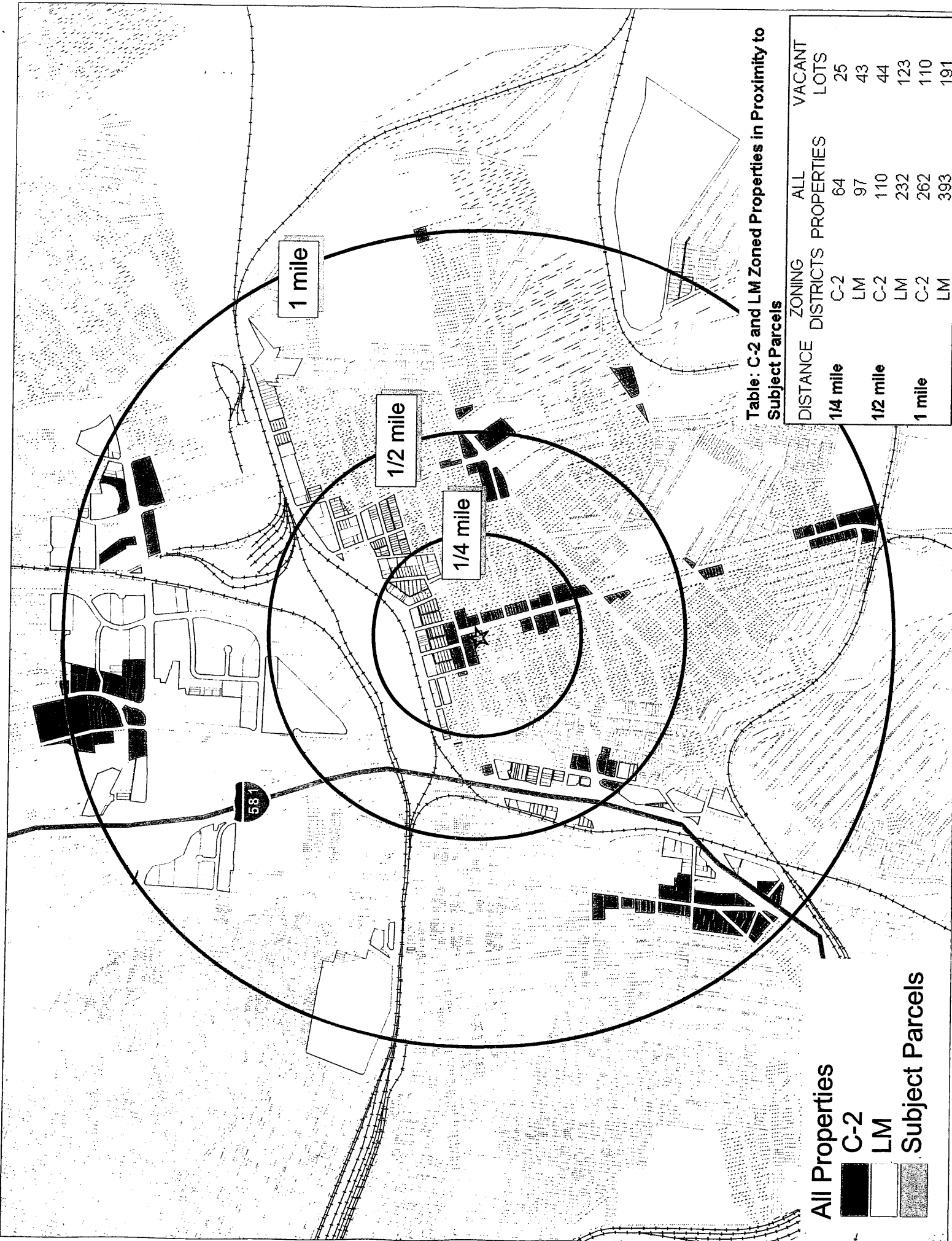
Subject Properties



Zoning Districts



Source: Belmont/Fallon Neighborhood Plan; Adopted by City Council January 2003



IN THE COUNCIL OF THE CITY OF ROANOKE, VIRGINIA

IN RE:

Rezoning of three tracts of land located at the intersection of Stewart Avenue, S.E. and 9th Street, S.E., identified as official Tax Map Numbers 4112016, 4112017, and 4112018 (one parcel having a street address of 818 Stewart Avenue, S.E.), from RM-2, Residential Multi-Family, Medium Density District, to C-2, General Commercial District, such rezoning to be subject to certain conditions.

PETITION FOR REZONING

TO THE HONORABLE MAYOR AND MEMBERS OF THE COUNCIL OF THE CITY OF ROANOKE, VIRGINIA:

Petitioners Norman R. Pratt and Marie A. Pratt own real property in the City of Roanoke, Virginia, containing 0.4778 acres, more or less, located at the intersection of Stewart Avenue, S.E. and 9th Street, S.E. and being Tax Map Numbers 4112016, 4112017, and 4112018. The property is currently zoned RM-2, Residential Multi-Family, Medium Density District. A map of the property to be rezoned is attached as Exhibit A.

Pursuant to Section 36.1-690, Code of the City of Roanoke (1979), as amended, Petitioner requests that the said property be rezoned from RM-2, Residential Multi-Family, Medium Density District, to C-2, General Commercial District, subject to certain conditions set forth below, for the purpose of permitting an automobile repair establishment (Norm's Transmissions) on the property. The conceptual development plan dated September 22, 2003, is attached hereto as Exhibit B ("Development Plan").

Your petitioner believes the rezoning of the property will further the intent and purposes of the City's Zoning Ordinance and Vision 2001-2020 Comprehensive Plan. This property is located along 9th Street, S.E., and is currently a vacant lot. The small-scale commercial building housing Norm's Transmission Shop will provide commercial infill development which will complement the surrounding commercial and institutional uses.

Your petitioner hereby proffers and agrees that if the said tract is rezoned as requested, that the rezoning will be subject to, and that it will abide by, the following conditions:

1. The property will be developed in substantial conformity with the Development Plan dated September 22, 2003, and attached to this amended petition as Exhibit B, subject to any changes required by the City during the Comprehensive Site Plan review.
2. All lighting on the property shall consist of fixtures with shields designed to minimize illumination of any off-site property.
3. This property shall be used only as an automobile repair establishment except painting and body shops.
4. There shall be no freestanding signs on the subject property.

Attached as Exhibit C are the names, addresses and tax numbers of the owners of all lots or properties immediately adjacent to, immediately across a street or road from the property to be rezoned.

WHEREFORE, your Petitioner requests that the above-described tract be rezoned as requested in accordance with the provisions of the Zoning Ordinance of the City of Roanoke.

Respectfully submitted this 29 day of September 2003.

Norman R. Pratt

Marie A. Pratt


By Maryellen F. Goodlatte
of Counsel

Maryellen F. Goodlatte, Esq.
Glenn, Feldmann, Darby & Goodlatte
210 1st Street, S.W., Suite 200
P. O. Box 2887
Roanoke, Virginia 24001-2887

(540) 224-8018 - Telephone

(540) 224-8050 - Facsimile

Norman R. Pratt and Marie A. Pratt, owners of the property subject to this petition, hereby consent to this rezoning petition.



Norman R. Pratt



Marie A. Pratt

50'

8TH

11	4112610	12	13	14	15	16	17	18	19	20
36	4112610	37	4112611	38	4112612	39	4112613	40	4112614	41
42	4112615	43	4112616	44	4112617	45	4112618	46	4112619	47
53	4112620	54	4112621	55	4112622	56	4112623	57	4112624	58
64	4112625	65	4112626	66	4112627	67	4112628	68	4112629	69
75	4112630	76	4112631	77	4112632	78	4112633	79	4112634	80
86	4112635	87	4112636	88	4112637	89	4112638	90	4112639	91
92	4112640	93	4112641	94	4112642	95	4112643	96	4112644	97
103	4112645	104	4112646	105	4112647	106	4112648	107	4112649	108
110	4112650	111	4112651	112	4112652	113	4112653	114	4112654	115
121	4112655	122	4112656	123	4112657	124	4112658	125	4112659	126
132	4112660	133	4112661	134	4112662	135	4112663	136	4112664	137
138	4112665	139	4112666	140	4112667	141	4112668	142	4112669	143
144	4112670	145	4112671	146	4112672	147	4112673	148	4112674	149
151	4112675	152	4112676	153	4112677	154	4112678	155	4112679	156
157	4112680	158	4112681	159	4112682	160	4112683	161	4112684	162
163	4112685	164	4112686	165	4112687	166	4112688	167	4112689	168
169	4112690	170	4112691	171	4112692	172	4112693	173	4112694	174
175	4112695	176	4112696	177	4112697	178	4112698	179	4112699	180
181	4112700	182	4112701	183	4112702	184	4112703	185	4112704	186
187	4112705	188	4112706	189	4112707	190	4112708	191	4112709	192
193	4112710	194	4112711	195	4112712	196	4112713	197	4112714	198
199	4112715	200	4112716	201	4112717	202	4112718	203	4112719	204
205	4112720	206	4112721	207	4112722	208	4112723	209	4112724	210
211	4112725	212	4112726	213	4112727	214	4112728	215	4112729	216
217	4112730	218	4112731	219	4112732	220	4112733	221	4112734	222
223	4112735	224	4112736	225	4112737	226	4112738	227	4112739	228
229	4112740	230	4112741	231	4112742	232	4112743	233	4112744	234
235	4112745	236	4112746	237	4112747	238	4112748	239	4112749	240
241	4112750	242	4112751	243	4112752	244	4112753	245	4112754	246
247	4112755	248	4112756	249	4112757	250	4112758	251	4112759	252
253	4112760	254	4112761	255	4112762	256	4112763	257	4112764	258
259	4112765	260	4112766	261	4112767	262	4112768	263	4112769	264
265	4112770	266	4112771	267	4112772	268	4112773	269	4112774	270
266	4112775	267	4112776	268	4112777	269	4112778	270	4112779	271
272	4112780	273	4112781	274	4112782	275	4112783	276	4112784	277
278	4112785	279	4112786	280	4112787	281	4112788	282	4112789	283
284	4112790	285	4112791	286	4112792	287	4112793	288	4112794	289
290	4112795	291	4112796	292	4112797	293	4112798	294	4112799	295
296	4112800	297	4112801	298	4112802	299	4112803	300	4112804	301
302	4112805	303	4112806	304	4112807	305	4112808	306	4112809	307
308	4112810	309	4112811	310	4112812	311	4112813	312	4112814	313
314	4112815	315	4112816	316	4112817	317	4112818	318	4112819	319
320	4112820	321	4112821	322	4112822	323	4112823	324	4112824	325
326	4112825	327	4112826	328	4112827	329	4112828	330	4112829	331
332	4112830	333	4112831	334	4112832	335	4112833	336	4112834	337
338	4112835	339	4112836	340	4112837	341	4112838	342	4112839	343
344	4112840	345	4112841	346	4112842	347	4112843	348	4112844	349
350	4112845	351	4112846	352	4112847	353	4112848	354	4112849	355
356	4112850	357	4112851	358	4112852	359	4112853	360	4112854	361
362	4112855	363	4112856	364	4112857	365	4112858	366	4112859	367
368	4112860	369	4112861	370	4112862	371	4112863	372	4112864	373
374	4112865	375	4112866	376	4112867	377	4112868	378	4112869	379
380	4112870	381	4112871	382	4112872	383	4112873	384	4112874	385
386	4112875	387	4112876	388	4112877	389	4112878	390	4112879	391
392	4112880	393	4112881	394	4112882	395	4112883	396	4112884	397
398	4112885	399	4112886	400	4112887	401	4112888	402	4112889	403
404	4112890	405	4112891	406	4112892	407	4112893	408	4112894	409
410	4112895	411	4112896	412	4112897	413	4112898	414	4112899	415
416	4112900	417	4112901	418	4112902	419	4112903	420	4112904	421
422	4112905	423	4112906	424	4112907	425	4112908	426	4112909	427
428	4112910	429	4112911	430	4112912	431	4112913	432	4112914	433
434	4112915	435	4112916	436	4112917	437	4112918	438	4112919	439
440	4112920	441	4112921	442	4112922	443	4112923	444	4112924	445
446	4112925	447	4112926	448	4112927	449	4112928	450	4112929	451
452	4112930	453	4112931	454	4112932	455	4112933	456	4112934	457
458	4112935	459	4112936	460	4112937	461	4112938	462	4112939	463
464	4112940	465	4112941	466	4112942	467	4112943	468	4112944	469
470	4112945	471	4112946	472	4112947	473	4112948	474	4112949	475
476	4112950	477	4112951	478	4112952	479	4112953	480	4112954	481
482	4112955	483	4112956	484	4112957	485	4112958	486	4112959	487
488	4112960	489	4112961	490	4112962	491	4112963	492	4112964	493
494	4112965	495	4112966	496	4112967	497	4112968	498	4112969	499
500	4112970	501	4112971	502	4112972	503	4112973	504	4112974	505
506	4112975	507	4112976	508	4112977	509	4112978	510	4112979	511
512	4112980	513	4112981	514	4112982	515	4112983	516	4112984	517
518	4112985	519	4112986	520	4112987	521	4112988	522	4112989	523
524	4112990	525	4112991	526	4112992	527	4112993	528	4112994	529
530	4112995	531	4112996	532	4112997	533	4112998	534	4112999	535
536	4113000	537	4113001	538	4113002	539	4113003	540	4113004	541
542	4113005	543	4113006	544	4113007	545	4113008	546	4113009	547
548	4113010	549	4113011	550	4113012	551	4113013	552	4113014	553
554	4113015	555	4113016	556	4113017	557	4113018	558	4113019	559
560	4113020	561	4113021	562	4113022	563	4113023	564	4113024	565
566	4113025	567	4113026	568	4113027	569	4113028	570	4113029	571
572	4113030	573	4113031	574	4113032	575	4113033	576	4113034	577
578	4113035	579	4113036	580	4113037	581	4113038	582	4113039	583
584	4113040	585	4113041	586	4113042	587	4113043	588	4113044	589
590	4113045	591	4113046	592	4113047	593	4113048	594	4113049	595
596	4113050	597	4113051	598	4113052	599	4113053	600	4113054	601
602	4113055	603	4113056	604	4113057	605	4113058	606	4113059	607
608	4113060	609	4113061	610	4113062	611	4113063	612	4113064	613
614	4113065	615	4113066	616	4113067	617	4113068	618	4113069	619
620	4113070	621	4113071	622	4113072	623	4113073	624	4113074	625
626	4113075	627	4113076	628	4113077	629	4113078	630	4113079	631
628	4113080	629	4113081	630	4113082	631	4113083	632	4113084	633
634	4113085	635	4113086	636	4113087	637	4113088	638	4113089	639
640	4113090	641	4113091	642	4113092	643	4113093	644	4113094	645
646	4113095	647	4113096	648	4113097	649	4113098	650	4113099	651
648	4113100	649	4113101	650	4113102	651	4113103	652	4113104	653
654	4113105	655	4113106	656	4113107	657	4113108	658	4113109	659
660	4113110	661	4113111	662	4113112	663	4113113	664	4113114	665
666	4113115	667	4113116	668	4113117	669	4113118	670	4113119	671
672	4113120	673	4113121	674	4113122	675	4113123	676	4113124	677
678	4113125	679	4113126	680	4113127	681	4113128	682	4113129	683
684	4113130	685	4113131	686	4113132	687	4113133	688	4113134	689
690	4113135	691	4113136	692	4113137	693	4113138	694	4113139	695
696	4113140	697	4113141	698	4113142	699	4113143	700	4113144	701
702	4113145	703	4113146	704	4113147	705	4113148	706	4113149	707
708	4113150	709	4113151	710	4113152	711	4113153	712	4113154	713
714	4113155	715	41131							

160'

Deciduous
Tree



STORM WATER MAT
3" GRAVEL / GRASS

GRASS
PISTON
GRAVEL

PRIME AND SEAL
PAVEMENT

Overhead
Door

Overhead
Door

Norm's

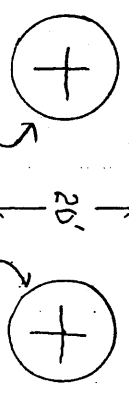
Overhead
Door

TRANSMISSIONS

SIDEWALK

130'

GRASS



Deciduous
Trees

30'

SIDEWALK



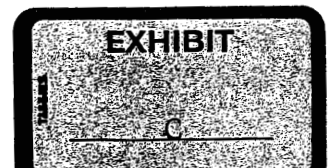
Deciduous
Trees

EXHIBIT
B

818 STEWART AV. S.E.

ADJOINING PROPERTY OWNERS
OF
NORMAN R. PRATT and MARIE A. PRATT
TAX MAP PARCELS 4112016, 4112017, AND 4112018

TAX MAP NUMBER	OWNER(S)/ADDRESSES
4112006	Mark Edward Minnix 18550 Calloway Road Calloway, Virginia 24067
4112007	Byron A. Mullen Doris P. Mullen 1113 Morehead Avenue, S.E. Roanoke, Virginia 24013
4112008	Charlie Davis Polumbo, Jr. 310 Stonebridge Drive Vinton, Virginia 24179
4112009	Charlie Davis Polumbo, Jr. 310 Stonebridge Drive Vinton, Virginia 24179
4112101	AMVETS Post #4 911 Tazewell Avenue, S.E. Roanoke, Virginia 24013
4112111	AMVETS Post #40 911 Tazewell Avenue, S.E. Roanoke, Virginia 24013
4112110	The Castle Rock Group 6053 Burnham Road, S.W. Roanoke, Virginia 24018
4112701	Joseph Wayne Ellis, Sr. 1019 Clearview Drive Vinton, Virginia 24179



4112609	Belmont Baptist Church 819 Stewart Avenue, S.E. Roanoke, Virginia 24013
4112608	Belmont Baptist Church Trustees 819 Stewart Avenue, S.E. Roanoke, Virginia 24013
4112607	Belmont Baptist Church Trustees 819 Stewart Avenue, S.E. Roanoke, Virginia 24013
4112015	Michael K. Mabery 1689 Duncans Chapel Road, N.W. Willis, Virginia 24380-4542

October 16, 2003
424 Bullitt Ave SE.
Roanoke, Va 24013

Dear Roanoke Planning Commission:

In reference to Norman and Marie Batt's application to rezone from R112 to C2.

As a resident of Southeast, I have several comments and concerns:

Belmont-Fallon Neighborhood Plan adopted by Council on January 2003 states:

pg. 33 9th Street and Tazewell Ave. -
the future use of land should be
an attractive building or park.

I personally do not think a transmission repair shop would be an attractive addition to this area.

pg. 20 Minimize disruption of
existing neighborhood.

Stewart Ave and 9th St. is two blocks
away from the pilot project. Se by Design:
the neighborhood and the City are
supposed to be working toward improving
the neighborhood image and livability.
Supporting revitalization efforts.
The beautiful historic Belmont Baptist
Church and large residential homes

are located in this area. Vehicles waiting to be repaired are an eyesore, not an improvement. I think a transmission shop would disrupt this neighborhood.

Pg. 17 Southeast has several industrial areas that have numerous vacant buildings. These underused properties are already properly zoned for the proposed "Norm's Transmissions."

As a homeowner and resident of Southeast, I oppose the rezoning of residential land with tax numbers 4112016, 2017 and 2018. Southeast has other compatible areas that need to be considered.

Respectfully,
Christine Proffitt

The undersigned enthusiastically support the rezoning of three parcels at the corner of 9th Street and Stewart Avenue for the relocation of Norm's Garage, an automobile transmission shop, from RM-2 to C-2. We believe this low-intensity commercial use is just right for the location and helps to anchor the other commercial uses along 9th Street. We do not think residential uses are appropriate here:

[illegible]

5

[illegible][illegible]

4

NAME	ADDRESS
------	---------

[illegible]

October 24, 2003

RECEIVED

OCT 30 2003

CITY OF ROANOKE
PLANNING BUILDING AND DEVELOPMENT

Ms. Martha Franklin
Roanoke City Planning Commission
Municipal Building, First Floor
Room 162
215 Church Avenue, S.W.
Roanoke, Virginia 24011

Dear Ms. Franklin

Please accept this letter to show my support for the rezoning request of Norman and Marie Pratt. I have reviewed the application. I believe the conditions are proper and their requested use is appropriate.

The existence of Norm's Garage in the south east area has been a long lasting one. They have been in the area for 13 years and have done nothing but clean up and support the neighborhood.

I Earl E. Elkins live at 921 Taz. Ave SE
13 years ago Norm and Robert has
ran the garage at 10th and Taz. Ave.
it is a good clean business, and I
have dealt with them from the start
to present, they worked on my cars
my families cars and lots of friends
cars.

I have seen them do some
free work on some cars for people
~~who~~ who are poor and can't afford it.

If they build a building on 9th and
Stuart Ave. S.E. they will run the
garage in a clean and efficient manner
and abide by any Zoning Rules.

Earl E. Elkins

Ms. Martha Franklin
Roanoke City Planning Commission
Municipal Building, First Floor
Room 162
215 Church Avenue, SW
Roanoke, Virginia 24011

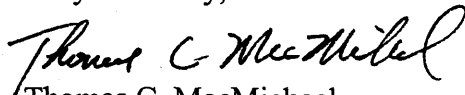
October 27, 2003

Dear Ms. Franklin,

I am writing in support of the rezoning request of Norman and Marie Pratt. It is my understanding that they plan to build a new auto service center at the corner of Stewart and Ninth Street in Southeast Roanoke City. I view this use of that property as appropriate and proper since the Ninth Street corridor has many other businesses and services nearby. I have known Mr. Pratt and his son for the past 8 years. They have provided a valuable service to the Presbyterian Community Center by providing affordable automotive service to PCC vehicles. Norm's Garage has also examined and repaired vehicles donated to the PCC, which were then turned over to needy families that the PCC regularly serves.

Norm's Garage is a reputable and dependable business that I believe is a valuable asset to the Southeast community. I urge you to accept and support the rezoning request to help keep this business in our neighborhood.

Very Sincerely,



Thomas C. MacMichael
Director of Family Programs

RECEIVED

OCT 28 2003

**CITY OF ROANOKE
PLANNING BUILDING AND DEVELOPMENT**

October 31, 2003

Ms. Martha Franklin
Roanoke City Planning Commission
Municipal Building, First Floor
Room 162
215 Church Avenue, S.W.
Roanoke, Virginia 24011

Dear Ms. Franklin

Please accept this letter to show my support for the rezoning request of Norman and Marie Pratt. I have reviewed the application. I believe the conditions are proper and their requested use is appropriate.

The existence of Norm's Garage in the south east area has been a long lasting one. They have been in the area for 13 years and have done nothing but clean up and support the neighborhood.

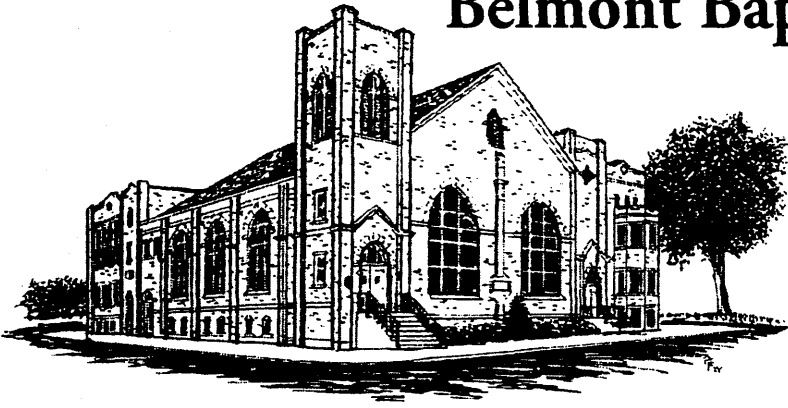
SHANNON N. WOODING
Shannon Wooding
WOODING'S AUTO BODY

RECEIVED

NOV - 7 2003

CITY OF ROANOKE
PLANNING BUILDING AND DEVELOPMENT

Belmont Baptist Church



Rev. Steven Harris,
Pastor

Rev. Carol F. McCann,
Minister of Education, Youth & Children

Rev. Lynwood Catron,
Minister of Music

825 Stewart Ave., SE
Roanoke, VA 24013
(540) 343-5539

RECEIVED

NOV 03 2003

CITY OF ROANOKE
PLANNING BUILDING AND DEVELOPMENT

October 30, 2003

To Whom It May Concern:

Norm's Garage has been a part of the economic fabric of Southeast Roanoke for decades. As pastor of Belmont Baptist Church, located at 825 Stewart Avenue, I was delighted to see Mr. Pratt's plans to move his business. Norm's Garage will be a welcome neighbor by the church.

I am hopeful of Mr. Pratt's relocation of his garage, for such action will continue the economic development and revitalization of Southeast. Mr. Pratt has been a committed businessman in Southeast, and it's good economic interest for him to relocate and grow his business at Stewart Avenue and Ninth Street.

The property to which Mr. Pratt desires to relocate has been vacant for many years. By moving his business and making the property aesthetically pleasing, this section of Belmont will be more inviting to those living in and traveling to Southeast.

As stated, Mr. Pratt's business would be a welcome neighbor and I hope the Commission will support this development at Stewart and Ninth.

Sincerely,

Rev. Steven W. Harris
Pastor, Belmont Baptist Church

cc: Mr. Norman Pratt

11/06/03

MS. MARTHA FRANKLIN
ROANOKE CITY PLANNING COMMISSION
MUNICIPAL BUILDING, FIRST FLOOR
ROOM 162
215 CHURCH AVENUE, S.W.
ROANOKE, VA 24011

DEAR MS. FRANKLIN

MY NAME IS TIM MCGUIRE AND I OWN BILL'S AUTO SALES ON TAZEWELL AVENUE. I HAVE BEEN IN BUSINESS FOR FOURTEEN YEARS AND CURRENTLY OWN TWELVE OTHER PROPERTIES IN ROANOKE CITY AS WELL.

I RECENTLY SIGNED A CONTRACT TO PURCHASE THE OLD POLUMBO'S RESTAURANT PROPERTY THAT JOINS MR. PRATT'S PROPOSED SITE FOR THE NEW BUILDING. I URGE YOU TO ENCOURAGE ESTABLISHED SOUTHEAST BUSINESS OWNERS TO STAY IN SOUTHEAST. MR. PRATT COULD HAVE PURCHASED OTHER PROPERTY AND MOVED OUT OF OUR NEIGHBORHOOD. ALL OF MY TRANSMISSION WORK IS DONE THROUGH HIS BUSINESS BECAUSE IT IS ALWAYS REPAIRED CORRECTLY AND AT A FAIR PRICE. IT WOULD BE A HUGE LOSS TO MY BUSINESS AND THE COMMUNITY IF HE WERE NO LONGER IN SOUTHEAST.

HIS NEW BUILDING ALONG WITH THE NEW SUPER D DRUG LOCATION ACROSS THE STREET WILL ENCOURAGE MORE PROPERTY OWNERS TO CONTINUE TO IMPROVE THE APPEARANCE AND CONDITION OF THEIR PROPERTY.

TO PROVE MY BELIEF IN THE SOUTHEAST COMMUNITY, I INVITE YOU TO LOOK AT MY RENTAL PROPERTY LOCATED AT 117 9TH STREET S.E. IN WHICH I RECENTLY SPENT IN EXCESS OF \$45,000 TO COMPLETELY REMODEL IT. I COULD HAVE EASILY SPENT \$7000.00 AND LEFT IT AN EYESORE AND RENTED IT ANYWAY. I DID NOT CHOOSE THAT OPTION BECAUSE I PLAN ON BEING IN THE SOUTHEAST COMMUNITY FOR THE REST OF MY LIFE.

WITH THIS, I URGE YOU TO SUPPORT THE REZONING REQUEST OF NORMAN AND MARIE PRATT.

SINCERELY,


TIM MCGUIRE

BILL'S AUTO SALES
804 TAZEWELL AVE. SE
ROANOKE, VA 24013
(540) 344-9479

RECEIVED

NOV - 7 2003

CITY OF ROANOKE
PLANNING BUILDING AND DEVELOPMENT

Wooding's Auto Body

824 Tazewell Ave. S.E
Roanoke, Virginia 24013
540-345-4871

Ms. Martha Franklin
Roanoke City Planning Commission
Municipal Building, First Floor
Room 162
215 Church Avenue, SW
Roanoke, Virginia 24011

Dear Planning Commission,

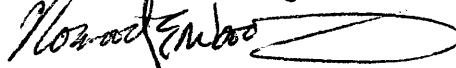
We at Wooding's Auto Body have had a long lasting relationship as a neighbor to Norm's Garage. Both of our Company's entered S.E in the same month of the same year some, 13.5 years ago. Since that time I have appreciated and witnessed the services and commitment to the local residents of the Southeast Community.

We also have greatly benefited from the influx of customers Norm's Has brought to our community, as have many other local company's located in S.E. The importance of bringing new faces and people to S.E that otherwise would not come here is great. I feel that Norm's has become a pillar of the community and it would be extremely beneficial to keep them in the immediate area.

I fully support the request to rezone the lot at 818 Stewart Ave. from Residential to Commercial and feel Norm's would fit the description of "Commercial rehabilitation and in fill development" perfectly. I have reviewed the site plan of the proposed Norm's Transmission's and feel it is exactly what the community needs. It is a very attractive and inviting plan and I feel it incorporates the needs and wants of our residents.

Very truly yours,

Norwood Wooding



RECEIVED

NOV - 7 2003

CITY OF ROANOKE
PLANNING BUILDING AND DEVELOPMENT

November 10, 2003

Ms. Martha Franklin
Roanoke City Planning Commission
Municipal Building, First Floor
Room 162
215 Church Avenue, SW
Roanoke, Virginia 24011

Dear Ms. Franklin,

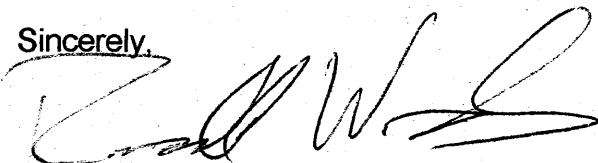
Our Corporation, Santillane, LLC, owns the property at 602 Ninth Street SE in Roanoke and is currently leased by Replay Video. Our owner (George C. Moore) or our corporation has owned this property for 8 years. We currently have a good working relationship with Norm's Garage and are eager to see their business relocate to the planned new building located at 818 Stewart Avenue.

By allowing Norm's Garage to move to this new location, we feel sure it will help improve the business traffic in this area as well as attract new customers to the area. Norm's Garage has been a cornerstone business in this area for over 13 years and this new project will transform a vacant lot into a thriving business.

Our corporation fully supports the rezoning of this vacant lot location at 818 Stewart Avenue from Residential to Commercial. We feel that this will help encourage economic growth in this part of town which is in desperate need of new growth.

As stated above, I urge you to honor the rezoning request of Norm's Garage to help continue the economic development of the Southeast Roanoke area.

Sincerely,

A handwritten signature in black ink, appearing to read 'Randall Woods', written over a horizontal line.

Randall Woods
General Manager
Santillane, LLC

November 13,2003

Mr. Norman R. Pratt
C/p Norm's Garage
1003 Tazewell Avenue
Roanoke, Va. 24013

Re: Rezoning

Dear Mr. Pratt:

This letter is to show South East Action Forum is supporting the rezoning request. We believe the conditions are proper and the request use is appropriate. The rezoning does not jeopardize or adversely impact the Southeast...By Design project.

South East Action Forum, enthusiastically support the rezoning of three parcels at the corner of 9th Street and Stewart Avenue for the relocation of Norm's Garage, an automobile transmission shop, from RM-2 to C-2. We, believe this low-intensity commercial use is just right for the location and helps to anchor the other commercial uses along 9th Street. We, do not think residential uses are appropriate here.

Our Forum, would like to say that one of the important points of the Southeast...By Design project is to provide for commercial rehabilitation and in-fill development. This, is just what Mr. Norman R. Pratt is doing.

South East Action Forum, support Mr. Norman R. Pratt 100%.

Sincerely Yours,

A handwritten signature in cursive script, appearing to read "Donna Bonham".

Donna Bonham
Secretary
South East Action Forum



#4112015
Multi-Family
RM-2



4112014
Single-family
RM-2



#4112012
Multifamily
RM-2



4112011
Multi Family
RM-2

IN THE COUNCIL OF THE CITY OF ROANOKE, VIRGINIA,

AN ORDINANCE to amend §36.1-3, Code of the City of Roanoke (1979), as amended, and Sheet No. 411, Sectional 1976 Zone Map, City of Roanoke, to rezone certain property within the City, subject to certain conditions proffered by the applicant; and dispensing with the second reading by title of this ordinance.

WHEREAS, Norman R. and Marie A. Pratt have made application to the Council of the City of Roanoke to have the hereinafter described property rezoned from RM-2, Residential Multifamily, Medium Density District, to C-2, General Commercial District, subject to certain conditions proffered by the applicant;

WHEREAS, the City Planning Commission, which after giving proper notice to all concerned as required by §36.1-693, Code of the City of Roanoke (1979), as amended, and after conducting a public hearing on the matter, has made its recommendation to Council;

WHEREAS, a public hearing was held by City Council on such application at its meeting on December 15, 2003, after due and timely notice thereof as required by §36.1-693, Code of the City of Roanoke (1979), as amended, at which hearing all parties in interest and citizens were given an opportunity to be heard, both for and against the proposed rezoning; and

WHEREAS, this Council, after considering the aforesaid application, the recommendation made to the Council by the Planning Commission, the City's

Comprehensive Plan, and the matters presented at the public hearing, is of the opinion that the hereinafter described property should be rezoned as herein provided.

THEREFORE, BE IT ORDAINED by the Council of the City of Roanoke that:

1. Section 36.1-3, Code of the City of Roanoke (1979), as amended, and Sheet No. 411 of the Sectional 1976 Zone Map, City of Roanoke, be amended in the following particular manner and no other:

Those certain parcels of land located at the intersection of Stewart Avenue, S.E. and Ninth Street, S.E, and designated on Sheet No. 411 of the Sectional 1976 Zone Map, City of Roanoke, as Official Tax Nos. 4112016, 4112017 and 4112018, be, and is hereby rezoned from RM-2, Residential Multifamily, Medium Density District, to C-2, General Commercial District, subject to the proffers contained in the Petition filed in the Office of the City Clerk on September 30, 2003, and that Sheet No. 411 of the 1976 Zone Map be changed in this respect.

2. Pursuant to the provisions of Section 12 of the City Charter, the second reading of this ordinance by title is hereby dispensed with.

ATTEST:

City Clerk.



CITY OF ROANOKE OFFICE OF THE CITY MANAGER

Noel C. Taylor Municipal Building
215 Church Avenue, S.W., Room 364
Roanoke, Virginia 24011-1591
Telephone: (540) 853-2333
Fax: (540) 853-1138
CityWeb: www.roanokegov.com

December 15, 2003

Honorable Ralph K. Smith, Mayor
Honorable C. Nelson Harris, Vice Mayor
Honorable William D. Best pitch, Council Member
Honorable Beverly T. Fitzpatrick, Jr., Council Member
Honorable M. Rupert Cutler, Council Member
Honorable Alfred T. Dowe, Jr., Council Member
Honorable Linda F. Wyatt, Council Member

Dear Mayor Smith and Members of City Council:

Subject: Lease of City Owned
Property to the YMCA of Roanoke
Valley, Inc.

Background:

On December 24, 2002, City Council entered into an Agreement with the YMCA of Roanoke Valley to provide support for the development and construction of a new YMCA facility in the West Church area of downtown Roanoke to accommodate an expanding number of YMCA programs and to replace the current YMCA building located at the corner of Church Avenue and Fifth Street, SW. In order to support the economic development of the West Church Avenue corridor including the new YMCA facility, City Council approved construction of a structured parking garage as part of the 2004-2008 Capital Improvement Plan. Bonds are projected to be sold in FY2006 to finance this garage project.

Considerations:

In order to assure sufficient interim parking for the new YMCA facility prior to the opening of a new public parking structure, the YMCA wishes to lease two city owned surface parking lots in the West Church corridor, as more fully described in Attachment A to this report, for the purpose of providing parking for its members and program attendees. The lease would commence on August 1, 2004 and terminate on December 31, 2005 subject to automatic renewal on a month-to-month basis until the parking structure is operational. Annual revenue from the lease will be \$35,597. The YMCA will assume complete responsibility,

Honorable Mayor and Member of Council
December 15, 2003
Page-2

liability and expenses related to the operation of the parking lots for the term of the lease.

Recommended Action:

Following a public hearing, authorize the City Manager to execute the appropriate documents, approved as to form by the City Attorney, to lease the above city-owned property for the term of August 1, 2004 until December 31, 2005 subject to automatic renewal on a month to month basis until the new public parking structure located in the West Church Avenue corridor is operational.

Respectfully submitted,

A handwritten signature in black ink, appearing to read "Darlene Burcham". The signature is fluid and cursive, with the first name "Darlene" and last name "Burcham" clearly distinguishable.

Darlene L. Burcham
City Manager

DLB:djm

c: Mary F. Parker, City Clerk
William M. Hackworth, City Attorney
Jesse A. Hall, Director of Finance
Elizabeth Neu, Director of Economic Development
Sherman Stovall, Acting Director, Management and Budget

CM03-00229

AGREEMENT TO ASSIGN LEASEHOLD INTEREST

THIS AGREEMENT TO ASSIGN LEASEHOLD INTEREST, made and entered into this _____ day of _____, 2003, by and between YMCA OF ROANOKE VALLEY, INC. (the "Borrower"), and SUNTRUST BANK, its successors and assigns (the "Lender") and is consented to by the CITY OF ROANOKE, VIRGINIA (the "City").

W I T N E S S E T H

THAT for and in consideration of the mutual covenants contained herein, and other valuable consideration, the receipt and sufficiency of which is hereby acknowledged, the Borrower assigns to the Lender and its assigns, all of its right, title and interest as tenant (the "Assignment") in and to that certain Lease dated the _____ day of _____, 2003, by and between the Borrower and the City, as in effect as of the date hereof (the "Lease"). The Assignment shall become effective only upon (i) the occurrence of an "Event of Default" under that certain Credit Line Deed of Trust, made as of the first day of November, 2002, from the Borrower to G. Michael Pace, Jr., and Alton L. Knighton, of record in the Clerk's Office for the Circuit Court for the City of Roanoke, Virginia as instrument no. 020023040 as modified, replaced or restated from time to time (the "Deed of Trust"), and (ii) written notice delivered by the Lender to the Borrower and the City, stating that the Lender or its assignee shall be substituted as the tenant under the Lease for the sole purpose of operating the property secured by the Deed of Trust. Any party substituted as the tenant under the Lease shall assume all of the Borrower's liabilities and obligations thereunder.

The City enters into this agreement for the sole purpose of consenting to the Assignment.

The Assignment is made and consented to subject to the requirement that in the event that any assignee hereunder does not operate the YMCA's facility as a "YMCA," then the rental amount under the Lease shall be adjusted to be equal to the parking rental rate then being offered by the City to other for-profit entities.

Exhibit A

Witness the following duly authorized signatures.

YMCA OF ROANOKE VALLEY, INC.

By: _____
Its: _____

SUNTRUST BANK

By: _____
Its: _____

CITY OF ROANOKE, VIRGINIA

By: _____
Its: _____

Exhibit A

LEASE

This **LEASE** is entered into this ____ day of _____, 2003, by and between the **CITY OF ROANOKE, VIRGINIA** (hereinafter referred to as "the City") and the **YMCA OF ROANOKE VALLEY, INC.**, (hereinafter referred to as "the YMCA").

FOR AND IN CONSIDERATION of the mutual entry into this lease by the parties hereto, and other good and valuable consideration, the City and the YMCA agree as follows:

1. Lease: The City hereby leases to the YMCA and the YMCA hereby leases from the City, Official Tax Nos. 1113408, 1113409, 1113410, 1113411, 1113412 and 1113413 and, when they become property belonging to the City pursuant to an Agreement dated December 24, 2002, between the City and the YMCA, Official Tax Nos. 1011206, 1011209 and 1011210 ("the Leased Property"). The YMCA acknowledges and agrees that the Leased Property is leased "as is" and that the City shall have no responsibility or liability for maintenance of the Leased Property, including, without limitation, snow removal, utilities, gravel or asphalt replacement, or drainage of surface water, provided, however, that the City shall be responsible for maintenance of the Leased Property for any period that it preempts the use of the Leased Property pursuant to Paragraph No. 3 and for any maintenance or cleaning required as a result or consequence of such preemption.

2. Term: This lease shall be for a term commencing on August 1, 2004, and terminating on December 31, 2005, subject to automatic renewal on a month to month basis until a parking structure that contains 150 parking spaces available for lease at rates approved by City Council by the YMCA for its patrons is constructed west of 3rd Street in the Church Avenue West area. The Church Avenue West area is defined and bound by Campbell Avenue to the north, 2nd Street to the east, Marshall Avenue to the south, and 7th Street to the west.

3. Use of Leased Property: The YMCA shall have the exclusive right to use the Leased Property twenty-four (24) hours each day and for seven (7) days a week provided, however, that all uses of the Leased Property by the YMCA shall be subject to the right of the City to preempt such use when special events are scheduled in the vicinity of the Leased Property or at any other location which necessitates, in the judgment of the City Manager for the City, the use of the Leased Property, by giving the YMCA seventy-two (72) hours written notice of such preemption. In the event the City preempts the YMCA's exclusive or other use of the Leased Property, all costs and expenses of required alternative parking arrangements shall be borne by the YMCA. The Leased Property shall be used by the YMCA solely for the purpose of parking motor vehicles, and in no case may a motor vehicle be left on the Leased Property for over twenty-four (24) consecutive hours.

4. Rent: The YMCA shall pay to the City TWO THOUSAND EIGHT HUNDRED EIGHTY THREE DOLLARS AND NINE CENTS (\$2,883.09) per month as rent for the Leased Property. The rent shall be due in advance and payable on the first day of each month during the term of this Lease. For each day in a month that the City preempts the YMCA's use of the Leased Property pursuant to Paragraph No. 3 above, the rent that month will be reduced by NINETY THREE DOLLARS AND NO CENTS (\$93.00).

5. The YMCA's Responsibilities:

(a) The YMCA shall arrange for its staff to patrol the Leased Property as part of their regular duties during the hours when the Leased Property is being used for the YMCA parking; provided, however, that the YMCA assumes no responsibility for patrolling or securing the Leased Property when it is being used by the City or others for special events.

(b) The YMCA shall keep the Leased Property clear of trash and debris.

(c) The YMCA shall install signs on the leased property, and shall remove such signage upon termination of the lease at YMCA expense.

6. Insurance and Indemnification:

(a) Requirement of insurance. The YMCA shall, at its sole expense, obtain and maintain during the life of this Lease the insurance policies required by this section. Any required insurance policies shall be effective prior to the beginning of any work or other performance by the YMCA under this Lease. The following policies and coverages are required:

(1) Commercial General Liability. Commercial general liability insurance shall insure against all claims, loss, cost, damage, expense or liability from loss of life or damage or injury to persons or property arising out of the YMCA's use of the Leased Property. The minimum limits of liability for this coverage shall be ONE MILLION DOLLARS AND NO CENTS (\$1,000,000.00) combined single limit for any one occurrence.

(b) Umbrella Coverage. The insurance coverages and amounts set forth in subsection (1) may be met by an umbrella liability policy following the form of the underlying primary coverage in a minimum amount of ONE MILLION DOLLARS AND NO CENTS (\$1,000,000.00). Should an umbrella liability insurance coverage policy be used, such coverage shall be accompanied by a certificate of endorsement stating that it applies to the specific policy numbers indicated for the insurance providing the coverages required by subsections (1), and it is further agreed that such statement shall be made a part of the certificate of insurance furnished by the YMCA to this City.

(c) Evidence of Insurance. All insurance shall meet the following requirements:

(1) Prior to execution of this Lease, the YMCA shall furnish the City a certificate or certificates of insurance showing the type, amount, effective dates and date of expiration of the policies. Certificates of insurance shall include any insurance deductibles. Such certificates shall be attached to this Lease at the time of execution of this Lease and shall be furnished in a timely fashion to demonstrate continuous and uninterrupted

coverage of all of the required forms of insurance for the entire term of this Lease.

- (2) The required certificate or certificates of insurance shall include substantially the following statement: "The insurance covered by this certificate shall not be canceled or materially altered, except after thirty (30) days written notice has been received by the Risk Management Officer for the City of Roanoke."
- (3) The required certificate or certificates of insurance shall name the City of Roanoke, its officers, employees, agents, volunteers and representatives as additional insureds.
- (4) Where waiver of subrogation is required with respect to any policy of insurance required under this section, such waiver shall be specified on the certificate of insurance.
- (5) Insurance coverage shall be in a form and with an insurance company approved by the City which approval shall not be unreasonably withheld. Any insurance company providing coverage under this Lease shall be authorized to do business in the Commonwealth of Virginia.

7. Indemnification: The YMCA agrees and binds itself and its successors and assigns to indemnify, keep and hold the City and its officers, employees, agents, volunteers and representatives free and harmless from any liability on account of any injury or damage of any type to any person or property growing out of or directly or indirectly resulting from any act or omission of the YMCA including: (a) the YMCA's use of the City's Tax Nos. 1113408, 1113409, 1113410, 1113411, 1113412, 1113413, and when they become property belonging to the City pursuant to an Agreement dated December 24, 2002, between the City and the YMCA, Official Tax Nos. 1011206, 1011209 and 1011210, (b) the exercise of any right or privilege granted by or under this lease; or (c) the failure, refusal or neglect of the YMCA to perform any duty imposed upon or assumed by the YMCA or under this lease. In the event that any suit or proceeding shall be brought against the City or any of its officers, employees, agents, volunteers or representatives at law or in equity, either independently or jointly with the YMCA on account thereof, the YMCA, upon notice given to it by the City or any of its officers, employees, agents, volunteers or representatives, will pay all costs of defending the City or any of its officers, employees, agents, volunteers or representatives in any such action or other proceeding. In the event of any settlement or any final judgment being awarded against the City or any of its officers, employees, agents, volunteers or representatives, either independently or jointly with the YMCA, then the YMCA will pay such settlement or judgment in full or will comply with such decree, pay all costs and expenses of whatsoever nature and hold the City or any of its officers, employees, agents, volunteers or representatives harmless therefrom.

8. Equal Employment Opportunity: During the performance of this Lease, the YMCA agrees as follows:

(a) The YMCA will not discriminate against any employee or applicant for employment because of race, religion, color, sex, national origin, age, disability, or any other basis prohibited by state law relating to discrimination in employment, except where there is a bona fide occupational qualification reasonably necessary to the normal operation of the YMCA. The YMCA agrees to post in conspicuous places, available to employees and applicants for employment, notices setting forth the provisions of this nondiscrimination clause.

(b) The YMCA, in all solicitations or advertisements for employees placed by or on behalf of the YMCA, will state that such the YMCA is an equal opportunity employer.

(c) The YMCA will include the provisions of the foregoing subsections (a) and (b) in every contract or purchase order of over ten thousand dollars and no cents (\$10,000.00) so that the provisions will be binding upon each contractor or vendor.

9. Drug-free workplace: During the performance of this Lease, the YMCA shall: (i) provide a drug-free workplace for the YMCA's employees; (ii) post in conspicuous places, available to employees and applicants for employment, a statement notifying employees that the unlawful manufacture, sale, distribution, dispensation, possession, or use of a controlled substance or marijuana is prohibited in the YMCA's workplace and specifying the actions that will be taken against employees for violations of such prohibition; (iii) state in all solicitations or advertisements for employees placed by or on behalf of the YMCA that the YMCA maintains a drug-free workplace; and (iv) include the provisions of the foregoing clauses in every subcontract or purchase order of over ten thousand dollars and no cents (\$10,000.00) so that the provisions will be binding upon each subcontractor or vendor. For the purpose of this section, "drug-free workplace" means a site for the performance of work done in connection with this Lease.

10. Faith-based organizations: Pursuant to §2.2-4343.1 of the Code of Virginia (1950), as amended, the City of Roanoke does not discriminate against faith-based organizations.

11. Negotiation: This Lease has been fully negotiated by and between the parties and shall be construed as if both parties had an equal responsibility in the drafting hereof.

12. Termination: If a party defaults in its obligations under this Lease, the other party may terminate the Lease if the defaulting party has failed to correct such default within 30 days after receiving written notice of the default.

13. Right of Entry: The City and its agents shall be entitled to enter upon the Leased Property at any reasonable time for any reasonable purpose.

14. Regulations: The YMCA shall fully comply with all local, state, and federal ordinances, laws, and regulations.

15. Entire Lease: This Lease represents the entire integrated Lease between the parties and supersedes all prior negotiations, representations or agreements, either written or oral.

16. No Waiver of Terms of Lease: No failure of any party to insist upon strict observance of any provision of this Lease, and no custom or practice of the parties at variance with the terms hereof, shall be deemed a waiver of any provision of this Lease in any instance.

17. Notice: Any notice, request, or demand given or required to be given under this Lease shall, except as otherwise expressly provided herein, be in writing and shall be deemed duly given only if delivered personally or sent by certified mail, return receipt requested to the addresses stated below.

To the City: City Manager
Room 364, Noel C. Taylor Municipal Building
215 Church Avenue, S. W.
Roanoke, Virginia 24011

cc: Director of Economic Development
111 Franklin Plaza
Suite 200
Roanoke, Virginia 24011

To the YMCA: Cal Johnson, Executive Director
YMCA of Roanoke Valley, Inc.
425 Church Avenue, S.W.
Roanoke, Virginia 24016

18. Assignment: The City may assign this Lease with the consent of the YMCA, which consent shall not be reasonably withheld.

19. Relationship to Other Parties: It is not intended by any of the provisions of any part of this Lease to confer a benefit upon any other person or entity not a party to this Lease or to authorize any person or entity not a party to this Lease to maintain a suit pursuant to the terms or provisions of this Lease, including, without limitation, any claim or suit for personal injuries, property damage or loss of profits or expenses.

20. Amendment: This Lease shall be amended only with the written agreement of both parties.

21. Assignment of Leasehold Interest: The City consents to the assignment of the YMCA's interest pursuant to the terms of that certain Agreement to Assign Leasehold Interest, dated the date hereof and attached hereto as Exhibit A and incorporated herein, by which SunTrust Bank, or its assignee, may be substituted for the YMCA with all rights, privileges, and obligations of the YMCA hereunder, subject to the requirement that in the event that any assignee thereunder does not

operate the facility as a YMCA, then the rental amount shall be adjusted to be equal to the parking rental rate then being offered by the City to other for-profit entities.

IN WITNESS WHEREOF, the parties hereto have executed the same as of the day and year first hereinabove written:

ATTEST:

CITY OF ROANOKE

Mary F. Parker, City Clerk

By _____
Darlene L. Burcham,
City Manager

ATTEST:

YMCA OF ROANOKE VALLEY, INC.

By _____
Secretary

By _____
President

Approved as to Form:

Approved as to Execution:

Assistant City Attorney

Assistant City Attorney

IN THE COUNCIL OF THE CITY OF ROANOKE, VIRGINIA,

AN ORDINANCE authorizing the City Manager to enter into a lease with YMCA of Roanoke Valley, Inc., for the lease of City-owned property identified as Official Tax Nos. 1113408, 1113409, 1113410, 1113411, 1113412 and 1113413, and Official Tax Nos. 1011206, 1011209 and 1011210, when they become property belonging to the City, upon certain terms and conditions; and dispensing with the second reading by title of this ordinance.

BE IT ORDAINED by the Council of the City of Roanoke that:

1. The City Manager and the City Clerk are authorized to execute and attest, respectively, in form approved by the City Attorney, a lease with YMCA of Roanoke Valley, Inc., for the lease of City-owned property identified as Official Tax Nos. 1113408, 1113409, 1113410, 1113411, 1113412 and 1113413, and Official Tax Nos. 1011206, 1011209 and 1011210, when they become property belonging to the City, such lease beginning August 1, 2004, and terminating December 31, 2005, subject to an automatic renewal on a month to month basis, and upon the terms and conditions as more particularly set forth in the City Manager's letter dated December 15, 2003, to this Council.

2. Pursuant to the provisions of Section 12 of the City Charter, the second reading of this ordinance by title is hereby dispensed with.

ATTEST:

City Clerk.



CITY OF ROANOKE

OFFICE OF THE CITY MANAGER

Noel C. Taylor Municipal Building
215 Church Avenue, S.W., Room 364
Roanoke, Virginia 24011-1591
Telephone: (540) 853-2333
Fax: (540) 853-1138
CityWeb: www.roanokegov.com

December 15, 2003

Honorable Ralph K. Smith, Mayor
Honorable C. Nelson Harris, Vice Mayor
Honorable William D. Bestpitch, Council Member
Honorable M. Rupert Cutler, Council Member
Honorable Alfred T. Dowe, Jr., Council Member
Honorable Beverly T. Fitzpatrick Jr., Council Member
Honorable Linda F. Wyatt, Council Member

Dear Mayor Smith and Members of City Council:

Subject: Lease of City-owned Property

Background:

The Hertz Corporation currently leases approximately 87,120 square feet of city-owned property identified as tax map number 6640123, commonly known as 1302 Municipal Road, N.W., Roanoke, Virginia, for the purposes of operating an automobile rental establishment. Hertz began leasing this parcel from the city of Roanoke in 1968. The current lease agreement expired November 30, 2003.


The Hertz Corporation has requested an extension of the current lease agreement for an additional five year period, beginning December 1, 2003 through November 30, 2008. The extension agreement will be substantially similar to the attached agreement. The proposed agreement establishes a rate of \$26,600 for the first year with an increase of 2% each year thereafter. The annual rental, which will be paid in monthly installments, shall be as follows:

Dec. 1, 2003 – Nov. 30, 2004	\$26,600	(\$2,166.67 per month)
Dec. 1, 2004 – Nov. 30, 2005	\$27,132	(\$2,261.00 per month)
Dec. 1, 2005 – Nov. 30, 2006	\$27,675	(\$2,306.25 per month)
Dec. 1, 2006 – Nov. 30, 2007	\$28,229	(\$2,352.42 per month)
Dec. 1, 2007 – Nov. 30, 2008	\$28,794	(\$2,399.50 per month)

Recommended Action:

Following the public hearing, authorize the City Manager to execute a lease extension agreement with The Hertz Corporation for approximately 87,120 square feet of city-owned property located at 1302 Municipal Road, N.W., Roanoke, Virginia for a period of five years, beginning December 1, 2003 and expiring November 30, 2008.

Respectfully submitted,



Darlene L. Burcham
City Manager

DLB:slm

c: Mary F. Parker, City Clerk
William M. Hackworth, City Attorney
Jesse A. Hall, Director of Finance
Sherman A. Stovall, Acting Director of Management and Budget
Dana Long, Manager of Billings and Collections
Scott L. Motley, Economic Development Specialist

CM03-00235

SECOND LEASE EXTENSION AGREEMENT

THIS SECOND EXTENSION AGREEMENT is entered into as of the ____ day of _____, 2003.

WHEREAS, by Lease Agreement dated December 1, 1993 ("Lease Agreement") between the **CITY OF ROANOKE, VIRGINIA** ("City") and **THE HERTZ CORPORATION** ("HERTZ"), the City agreed to lease to Hertz and Hertz agreed to lease from the City a 2.0-acre parcel of City-owned land located at 1302 Municipal Road, N.W., for Hertz's maintenance, servicing and storage facilities;

WHEREAS, the Lease Agreement was subsequently extended for an additional five year term pursuant to a First Extension Agreement entered into on June 25, 1999; and

WHEREAS, the Lease Agreement was subsequently amended to delete 800 square feet of area from the Lease Agreement's coverage, pursuant to a Lease Amendment entered into on _____, 2003; and

WHEREAS, Roanoke City Council has authorized the execution of this Agreement by the appropriate City officials by Ordinance No. _____, adopted on _____, 2003, following a public hearing required pursuant to § 15-2-1800(B) and 1813 of the Code of Virginia (1950), as amended, upon certain terms and conditions.

THEREFORE, IN CONSIDERATION of the above premises, and mutual covenants and promises hereinafter contained, City and Hertz hereby mutually agree as follows:

1. The Lease Agreement is hereby extended for an additional five (5) year term from December 1, 2003 through November 30, 2008.

2. The Lease Agreement shall be amended to provide that following annual rental, payable monthly in advance, and shall be as follows:

Dec. 1, 2003 – Nov. 30, 2004	\$26,600	(\$2,166.67 per month)
Dec. 1, 2004 – Nov. 30, 2005	\$27,132	(\$2,261.00 per month)
Dec. 1, 2005 – Nov. 30, 2006	\$27,675	(\$2,306.25 per month)
Dec. 1, 2006 – Nov. 30, 2007	\$28,229	(\$2,352.42 per month)
Dec. 1, 2007 – Nov. 30, 2008	\$28,794	(\$2,399.50 per month)

3. Except as changed or modified herein, the conditions, terms and obligations of the Lease Agreement remain in full force and effect as if fully stated herein.

IN WITNESS WHEREOF, the parties hereto have executed this Second Extension Agreement as of the day and year hereinabove written.

ATTEST:

CITY OF ROANOKE, VIRGINIA

Name:
Its City Manager

THE HERTZ CORPORATION

Name: Simon Ellis
Its Vice President, Properties and Concessions

COMMONWEALTH OF VIRGINIA §
 § To-wit:
CITY OF ROANOKE §

The foregoing instrument was acknowledged before me this ____ day of _____, 2003, by _____, City Manager of the City of Roanoke, for and on behalf of said municipal corporation.

My Commission expires on: _____.

Notary Public

STATE OF NEW JERSEY §
 § To-wit:
COUNTY OF BERGEN §

The foregoing instrument was acknowledged before me this ____ day of _____, 2003, by Simon Ellis, the Vice President, Properties and Concessions of The Hertz Corporation, for and on behalf of said corporation.

My Commission expires on: _____.

Notary Public

[SEAL]

Approved as to Form

Approved as to Execution

Assistant City Attorney

Assistant City Attorney

G:\BOB H\AIRPORTS\Roanoke, VA second extension agmt.doc

IN THE COUNCIL OF THE CITY OF ROANOKE, VIRGINIA,

AN ORDINANCE authorizing the proper City officials to enter into a lease extension agreement between the City and The Hertz Corporation for use of an 87,120 square foot parcel of City-owned land at 1302 Municipal Road, N.W., for the operation of an automobile rental establishment, upon certain terms and conditions, and dispensing with the second reading by title of this ordinance.

BE IT ORDAINED by the Council of the City of Roanoke that:

1. The City Manager and the City Clerk are authorized to execute and attest, respectively, on behalf of the City of Roanoke, in form approved by the City Attorney, a lease extension agreement with The Hertz Corporation for use of an 87,120 square foot parcel of City-owned land at 1302 Municipal Road, N.W., for such corporation's operation of an automobile rental establishment, for a term of five (5) years, beginning December 1, 2003, and ending November 30, 2008, at a total lease fee of \$138,430 over the five-year period, as more particularly described in the City Manager's letter to this Council dated December 15, 2003.

2. Pursuant to Section 12 of the City Charter, the second reading of this ordinance by title is hereby dispensed with.

ATTEST:

City Clerk.



CITY OF ROANOKE OFFICE OF THE CITY MANAGER

Noel C. Taylor Municipal Building
215 Church Avenue, S.W., Room 364
Roanoke, Virginia 24011-1591

Telephone: (540) 853-2333

Fax: (540) 853-1138

CityWeb: www.roanokegov.com

December 15, 2003

Honorable Ralph K. Smith, Mayor
Honorable C. Nelson Harris, Vice Mayor
Honorable William D. Bestpitch, Council Member
Honorable M. Rupert Cutler, Council Member
Honorable Alfred T. Dowe, Jr., Council Member
Honorable Beverly T. Fitzpatrick, Jr., Council Member
Honorable Linda F. Wyatt, Council Member

Dear Mayor Smith and Members of City Council:

Subject: Vacation and Dedication of Sewer &
Drainage Easements – Wildwood Road, SW
Tax Map No. 1070605

Robert H. Kulp, Jr., and G. Baker Ellett, owners of property located on Wildwood Road, SW, identified by Tax Map No. 1070605, have requested that the City vacate portions of sanitary sewer and drainage easements that interfere with the development of that parcel. The owners propose to relocate the existing utilities and easements and are willing to dedicate to the City alternate easements for the new alignment.

Council previously authorized the vacation and relocation of existing easements and the acceptance and dedication of new easements on this property for developmental purposes in January 2003. An easement was recorded which vacated the old easements and dedicated the new easements to the City. Subsequent to Council's actions and the recordation of the relevant documents, it was discovered by the owners of the property that the proposed structure to be developed on the property would encroach on a portion of the relocated easements.

The plats have been reviewed by and are acceptable to the City Engineer. See Attachment #1 for plat showing the portion of the existing easements to be vacated and the easements to be dedicated. In addition, the owner of the adjacent parcel shown as Lot 3A, June W. Camper, upon which a portion of the relocated easements will encroach, has agreed to dedicate the proposed easement on her parcel.

Recommended Action(s):

Following a public hearing, authorize the City Manager to execute the appropriate documents vacating a portion of the existing easements and accepting the new easements. The property

owner will be responsible for preparation of all necessary documents, approved as to form by the City Attorney, and for all expenses associated with relocating any existing utilities.

Respectfully submitted,

A handwritten signature in cursive script, appearing to read "Darlene L. Burcham".

Darlene L. Burcham
City Manager

DLB/SEF

Attachment

c: Mary F. Parker, City Clerk
William M. Hackworth, City Attorney
Jesse A. Hall, Director of Finance
Philip C. Schirmer, City Engineer
Stephen W. Lemon, Martin, Hopkins & Lemon, P.C.

#CM03-00232

EASMENT LINE LABEL	
NEW LOT 3A	
LINE	BEARING & DISTANCE
A to H	S 22°53'59" W. 15.89'
H to I	N 46°48'52" W. 7.35'
I to J	N 07°44'44" E. 18.41'
J to A	S 48°48'53" E. 12.46'

CLASSIFIED LINE TABLE	
NEW LOT 2A	
LINE	BEARING & DISTANCE
A to B	S 46°44'32" E. 77.04'
B to C	N 02°42'00" W. 25.53'
C to D	S 52°40'30" E. 24.16'
D to E	S 02°42'00" E. 102.09'
E to F	N 58°58'36" W. 20.15'
F to G	N 07°37'36" E. 59.25'
G to H	N 46°48'02" W. 66.96'
H to A	N 22°53'58" E. 15.98'

EASMENT LINE TABLE	
NEW LOT 2A	
LINE	BEARING & DISTANCE
N to S	N 22.53.59° E. 68.64'
E to M	S 02.06.31° E. 22.60'
M to M	S 52.33.56° W. 63.17'
M to O	N 19.24.33° E. 69.86'
S to P	N 32.60.00° W. 32.43'
P to O	N 17.32.00° E. 8.32'
O to N	N 18.24.33° E. 41.50'
N to S	N 64.64.24° E. 18.97'
S to F	S 02.34.00° W. 43.91'
F to E	S 68.26.38° E. 18.11'
E to N	S 02.33.00° E. 41.08'

JUNE W. CAMPER
TAX NO. 1072603
C.B. 1513, PG. 87

BY
THE
FEDERAL BUREAU OF INVESTIGATION
U.S. DEPARTMENT OF JUSTICE

GRAPHIC SCALE

1" = 20'

WILDWOOD ROAD, S.W.
R/W VARS

NEW LOT 1A
PROPERTY OF
BRAIN R. & MARTHA M. JONES
TAX NO. 1270000

EASEMENTS

NEW SOUTH BEACH AND OCEANVIEW EASEMENT BOUNDED BY CORNERS A, B, C, D, E, F, G TO A.

NEW SANDY BEACH EASEMENT, CITY WATER EASEMENT AND OCEANVIEW EASEMENT BOUNDED BY CORNERS C, H AND F TO C.

NEW 15 OCEANVIEW EASEMENT BOUNDED BY CORNERS A, S, I, E TO A.

NEW OCEANVIEW EASEMENT BOUNDED BY CORNERS K, H AND G TO K.

LEGEND:

M.S.L. MARSHLAND DRAINAGE LINE

E.C. EXISTING

PROPOSED PROPOSED

REINFORCED CONCRETE PIER

HP HIGH PINE TOWN

OWNERS:

C. BAKER, EILETT & ROBERT H. KLEIN, JR., NEW LOT 2A, C. KLEIN & CHARLES, NEW LOT 2A

ROBERT H. KULP, JR. & G. BAKER ELLIOTT

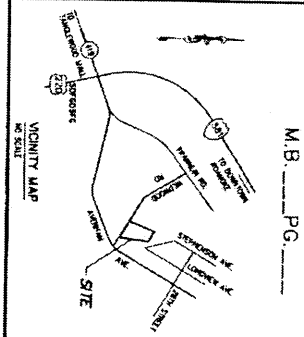
PLAY FOR

EXHIBIT A

BUCKING WAGON OF EXISTING 15' SAWLIFT SWIFT ASSEMBLY
 AND/OR AN EXISTING 15' BUCKING EXHAUST
 PLANT OF SMOOTHER WITH 21" IN. BURN LOT 2A
 2 BURN 2 PLANT (N.E. 1, P. 310)
 2 CAMPER
 CREATING NEW ELEMENTS
 AS SET FORTH ABOVE.
 CITY OF ROANOKE, VIRGINIA
 JAY M. WOODS
 DEPUTY
 CALC. 46
 N.B. - PW-16
 SCALE 1" = 40'
 DATE 11-1-2003
 E.O. 63-57251

TPP&S
T. P. PARENT & SON
INC.
PAPER HANGING
AND PAINTING
P.L.#44-1151
(800) 527-1151

M.B. PG



IN THE COUNCIL OF THE CITY OF ROANOKE, VIRGINIA,

AN ORDINANCE authorizing the vacation and relocation of a sanitary sewer and drainage easement across Tax Map No. 1070605, located on Wildwood Road, S.W., and across a portion of the adjoining parcel identified as 1070603, authorizing the acceptance and dedication of a new sanitary sewer and drainage easement across a portion of the same properties, upon certain terms and conditions, and dispensing with the second reading by title of this ordinance.

BE IT ORDAINED by the Council of the City of Roanoke that:

1. The City Manager and City Clerk are authorized to execute and attest, respectively, in form approved by the City Attorney, appropriate documentation providing for the vacation of a portion of an existing sanitary sewer and drainage easement across Tax Map No. 1070605, located on Wildwood Road, S.W., and across a portion of the adjoining parcel identified as 1070603, as more particularly described in the City Manager's letter to this Council dated December 15, 2003.

2. The City Manager and City Clerk are authorized to execute and attest, respectively, in form approved by the City Attorney, appropriate documentation providing for the acceptance and dedication of a new sanitary sewer and drainage easement, across Tax Map No. 1070605, located on Wildwood Road, S.W., and across a portion of the adjoining parcel identified as 1070603, as more particularly described in the City Manager's letter to

this Council dated December 15, 2003.

3. The City Attorney is authorized to record the appropriate documentation providing for acceptance and dedication of a new sanitary sewer and drainage easement across Tax Map No. 1070605, and across a portion of the adjoining parcel identified as 1070603, as more particularly described in the City Manager's letter to this Council dated December 15, 2003.

4. Vacation of the aforementioned easements is made expressly contingent on all of the property owners involved dedicating the new easements to the City of Roanoke.

5. Pursuant to Section 12 of the City Charter, the second reading of this ordinance by title is hereby dispensed with.

ATTEST:

City Clerk.

VIRGINIA;

IN THE COUNCIL OF THE CITY OF ROANOKE

IN THE MATTER OF

) CITY CLERK *03 NOV 03 PM 02:28
) PETITION FOR APPEAL
)
)

This is a Petition for Appeal from a decision of the Architectural Review Board under Section 36.1-642(d) of the Zoning Ordinance of the Code of the City of Roanoke (1979), as amended.

1. Name of Petitioner(s): LEWIS R BURGER
2. Doing business as (if applicable): BURGER & Son Inc.
3. Street address of property which is the subject of this appeal: 802
804 MARSHALL AVE SW
4. Overlay zoning (H-1, Historic District, or H-2, Neighborhood Preservation District) of property(ies) which is the subject of this appeal: H-2
5. Date the hearing before the Architectural Review Board was held at which the decision being appealed was made: 10-9-03
6. Section of the Code of the City of Roanoke under which the Certificate of Appropriateness was requested from the Architectural Review Board (Section 36.1-327 if H-1 or Section 36.1-345 if H-2): _____
7. Description of the request for which the Certificate of Appropriateness was sought from the Architectural Review Board: REPLACEMENT
WINDOWS, SIDING & INSULATION
8. Grounds for appeal: I Did This To Improve The
VALUE, AND TO DECREASE THE COST OF
UTILITIES
9. Name, title, address and telephone number of person(s) who will represent the Petitioner(s) before City Council: LEWIS R BURGER
111 WAMESTOWN Rd Rocky Mt VA 24151

483-1708

WHEREFORE, your Petitioner(s) requests that the action of the Architectural Review Board be reversed or modified and that a Certificate of Appropriateness be granted.

Signature of Owner(s)
(If not Petitioner):

Lewis R Barber Sr.

Name: LEWIS R BARBER
(print or type)

Name: _____
(print or type)

Signature of Petitioner(s) or
representative(s), where
applicable:

Name: _____
(print or type)

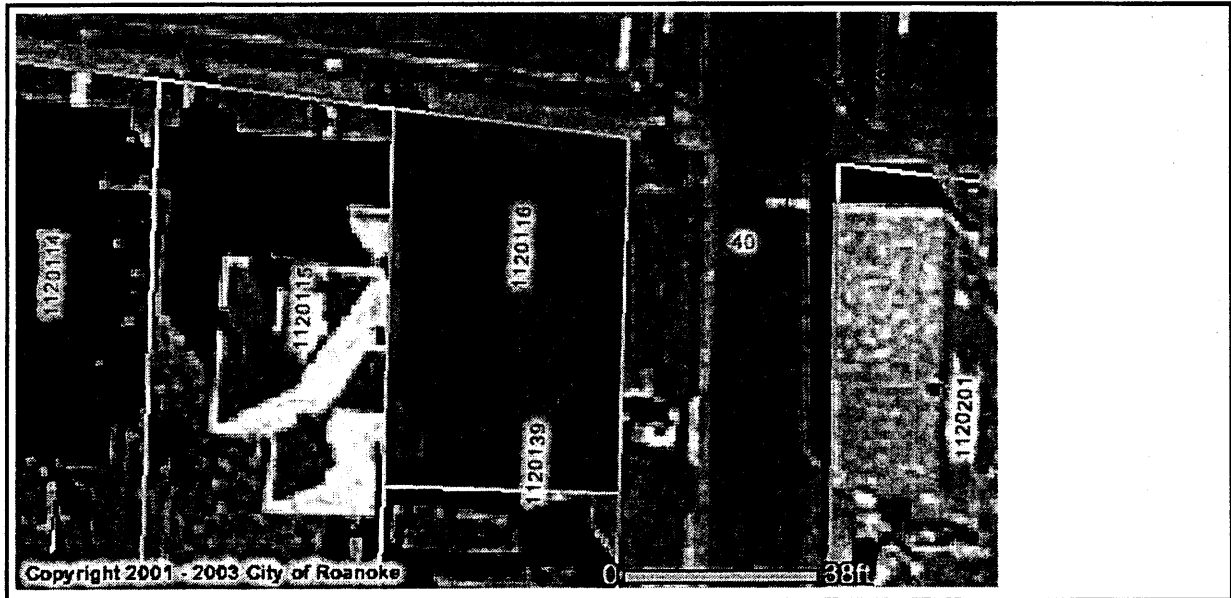
Name: _____
(print or type)

TO BE COMPLETED BY CITY CLERK:

Received by: Stephanie M. Morn Date: November 3, 2003
Deputy City Clerk

[Print Report](#) | [Close Window](#)GIS by [Terralogic, Inc.](#)

Property Information Card for: BURGER LEWIS RUSSELL

1111 JAMESTOWN RD
ROCKY MOUNT VA 24151**BUILDING PERMITS**[View Permits](#)[Images](#)[view large photo](#)**Sketches**[Sketch 1](#)**OWNER/LEGAL INFORMATION**

Tax Number	1120116
Property Address	802 MARSHALL AV SW
Legal Description	PT LOT 1 BLK 2 R H FISHBURN
Owner Name	BURGER LEWIS RUSSELL
Owner Address	1111 JAMESTOWN RD ROCKY MOUNT VA 24151
Neighborhood Number	171
Census Tract	0.00000
Property Use	300-Multifamily

ASSESSMENT INFORMATION

Assessment History	01/01/2003
Land Assessment	\$5,500.00
Improvements	\$29,200.00



CITY OF ROANOKE

PLANNING BUILDING AND DEVELOPMENT

215 Church Avenue, S.W., Room 166
 Roanoke, Virginia 24011
 Telephone: (540) 853-1730 Fax: (540) 853-1230
 E-mail: planning@ci.roanoke.va.us

December 15, 2003

Architectural Review Board
 Board of Zoning Appeals
 Planning Commission

Honorable Ralph K. Smith, Mayor
 Honorable C. Nelson Harris, Vice Mayor
 Honorable William D. Bestpitch, Council Member
 Honorable M. Rupert Cutler, Council Member
 Honorable Alfred T. Dowe, Jr., Council Member
 Honorable Beverly T. Fitzpatrick, Jr., Council Member
 Honorable Linda F. Wyatt, Council Member

Dear Mayor Smith and Members of City Council:

Subject: Lewis Russell Burger Appeal of
 Architectural Review Board Decision
 of the Application of Vinyl Siding at
 802 Marshall Avenue, S.W.

Background:

The structure at 802 Marshall Avenue, S.W., built in 1912 and containing two dwelling units, has a long history of code enforcement issues. Upon investigation by staff, it was determined that the structure was condemned after Mr. Burger purchased it in 1986. In 1994, code enforcement action was taken on the structure against Mr. Burger and the co-owner at that time, Margaret Wade, to fix the foundation, porch piers, siding, gutters, downspouts, porch decking, rails, columns, and electrical. Also in 1994, a fire damaged the structure, but Ms. Wade was granted a Certificate of Appropriateness to replace the standing-seam metal on the roofs with asphalt shingles. However, in July, 1995, a criminal complaint was issued to Ms. Wade for failing to fix the fire damage to the front porch. The work was subsequently completed, and the complaint dismissed in September, 1995.

In 1999, Mr. Burger obtained sole ownership of the property. That same year, the property was condemned and ordered to be vacated and secured. Code officials cited problems with exterior walls, roof, peeling paint, doors, soffits, gutters and downspouts, trash, lack of heat, insect infestation, and standing sewage in the basement. Code officials met with Mr. Burger in March and April, 2001, as he initiated repairs to the structure. Three months later on July 16, 2001, a Certificate of Compliance was granted from the Rental Inspection Program for the lower unit only. There were still outstanding code compliance issues with the

rest of the building. A year later, on July 16, 2002, the remainder of the work was completed.

In May, 2003, it was observed that vinyl siding was being applied to the front porch of the structure at 802 Marshall Avenue, S.W., which is within the H-2, Neighborhood Preservation district. Staff from the City, including Ms. Anne Beckett, Architectural Review Board (ARB) Agent, and code enforcement inspector, Mr. Nicholas Craig, visited the property on May 14, 2003 and spoke with Mr. Burger while he was applying vinyl siding to the entablature of the front porch roof. He had already covered the house with vinyl siding and replaced the wood windows with vinyl replacement windows. They requested that he stop work on the property and apply for a Certificate of Appropriateness for the work already completed. Mr. Burger refused to stop work and stated that he was "grandfathered in" because he owned the house prior to the historic district being established. Ms. Beckett advised him that the work needed to comply with the Historic District guidelines, and if he refused to obtain a Certificate, that he would be in violation of the zoning ordinance and be summoned to General District Court. Mr. Burger continued to apply vinyl siding and a summons was issued for his appearance in General District Court.

Mr. Burger appeared in General District Court on September 4, 2003. The Court continued the matter so that Mr. Burger could submit an application for a Certificate of Appropriateness for review by the Architectural Review Board at their October meeting. On October 9, 2003, the Architectural Review Board (ARB) considered the application (See Minutes: Attachment A). Mr. Burger stated that the vinyl had been installed three years ago. Photographs show some of the wood siding still visible on the house. One of the photographs is from the City of Roanoke's GIS inventory and the other one was taken by a resident in August, 2002. These photographs denote the historic wood siding and some trim details. The wood siding did not appear in poor condition. The photograph also depicts decorative features that have since been covered by synthetic material with no attempt to emulate them.

During the October, 2003 ARB meeting, Board members and staff were concerned that the vinyl siding had not been installed properly and that the windows were replaced with new vinyl windows that did not match the original windows, nor was the trim retained. Furthermore, virtually every element of the house had been covered with vinyl. ARB member, Don Harwood, suggested three specific actions the applicant could undertake that might make the vinyl siding more compatible.

Mr. Robert Richert, ARB Chairman, advised Mr. Burger if the Board denied his application that he could work with staff and other Board members to come back with another substantially different proposal. Mr. Burger requested that the Board proceed with the vote. The motion to approve the application failed by a 0-7 vote. Mr. Burger was formally notified of the denial and of his right to appeal to

City Council by letter dated October 10, 2003. He filed an appeal on November 3, 2003 (Attachment B).

On November 6, 2003, Mr. Burger appeared again in General District Court as scheduled. He stated that he was appealing the ARB's decision, and the court asked him to return on December 18, 2003 for further considerations of the case. Immediately following the November 6th court appearance, Mr. Burger approached Ms. Beckett with the possibility of working on a design solution for the ARB in lieu of his City Council appeal. Ms. Beckett agreed to work with Mr. Burger, but after several follow-up phone calls, Mr. Burger decided to proceed with his appeal to City Council.

Considerations:

Section 36.1-345(a) of the Zoning Ordinance provides:

"In order to encourage the preservation and enhancement of the district and encourage the rehabilitation and new construction in conformance with the existing scale and character of the district, the architectural review board shall review and approve the erection of new buildings or structures, including signs, the demolition, moving, reconstruction, alteration or restoration, of existing structures and buildings, including the *installation or replacement of siding*, or reduction in their floor area, including the enclosure or removal of a porch. No such erection, demolition, moving, reconstruction, alteration, restoration, or enlargement or reduction of a structure, or building, shall be undertaken without the issuance of a certificate of appropriateness by the board, unless otherwise specified herein." (emphasis added).

The H-2 Architectural Design Guidelines adopted by the ARB and endorsed by City Council state that historic wood siding is a distinctive feature of many Roanoke residences and that changing or covering siding can often alter or destroy the authentic character of a building. The guidelines further recommend the following be considered when installing vinyl siding:

- Do not replace sound historic siding with new materials to achieve an "improved" appearance.
- Historic wood siding is a distinctive feature that helps to define the visual characteristics of a building.
- Both new and historic siding requires periodic maintenance to give a building proper weather protection.
- Retain existing siding: Identify and keep the original exterior siding materials as well as any unique siding.

Two matters involving the application of vinyl siding have recently been appealed to City Council. In November 1998, the ARB denied a request to apply vinyl soffit material on a house at 601 Allison Avenue. The decision was appealed to City Council, which overturned the ARB's decision on January 19, 1999.


The latest appeal to City Council was a series of events that occurred during the summer of 2003, when Mr. Dana Walker of H & W Properties, LLC, twice appealed the ARB's decision to deny his application of vinyl siding to his rental property at 702 Marshall Avenue, SW. His initial request was denied by the ARB at their May 8, 2003 meeting because the vinyl siding did not maintain the architecturally defining features of the house. Due to a lack of gutters and downspouts, the house also suffered from moisture damage, which the Board believed that the application of vinyl siding would have exacerbated. Mr. Walker appealed the Board's decision to the June 21, 2003 City Council hearing, where Council requested that Mr. Walker present a new application to the Board. The ARB unanimously denied the revised application at their July 10, 2003 meeting. Mr. Walker once again appealed to City Council, which unanimously upheld the ARB's decision at their August 18, 2003 hearing. The vinyl siding that had been applied to the house was subsequently removed.

Since January 2001, the ARB has approved four applications for vinyl siding. Numerous other projects have been approved administratively. With these projects, the applicant provided sufficient detail and proposed to apply the materials in a manner that preserved the character and architecturally defining features of the house.

Recommendation:

The Architectural Review Board recommends that City Council affirm the ARB's decision to deny the issuance of a Certificate of Appropriateness for the installation of vinyl siding on the grounds that the installation of the vinyl siding does not maintain the architectural defining features of the building and is not appropriate.

Sincerely,

A handwritten signature in black ink, appearing to read "Robert N. Richert". The signature is fluid and cursive, with the first name "Robert" and last name "Richert" clearly distinguishable.

Robert N. Richert, Chairman
Architectural Review Board

cc: Darlene L. Burcham, City Manager
William M. Hackworth, City Attorney
Steven J. Talevi, Assistant City Attorney
R. Brian Townsend, Director, Planning Building and Development
Anne S. Beckett, Agent, Architectural Review Board

**CITY OF ROANOKE
ARCHITECTURAL REVIEW BOARD
MINUTES**

October 9, 2003

The regular meeting of the Architectural Review Board was held on Thursday, October 9, 2003, in the City Council Chamber, fourth floor, Noel C. Taylor Municipal Building. The meeting was called to order at 4:03 p.m., by Robert Richert, chairman. Attendance was as follows:

Members Present: Alison Blanton
Don Harwood
Robert Manetta
Matthew Prescott
Kyle Ray
Robert Richert
James Schleuter

The following items were considered:

1. Approval of Minutes – September 11, 2003.

There being no additions and/or corrections, the minutes were approved as distributed.

2. Request from HMP Partnership, LLC, represented by Richard M. Hughes, owner, for a Certificate of Appropriateness approving new addition and signage at 650/656 Elm Avenue, S.W.

Mr. Richard Hughes appeared before the Board and said he was both landlord and tenant on the project. He discussed the history of the company and the subsequent development of the business on Elm Avenue. He said that the request was for building enlargement, sign enlargement, and installation of Dryvit on portions of the building. Mr. Hughes said he had a major roof problem at 650 Elm, which had caused damage to the structure. He said he hoped to solve the problem with the application of Dryvit. He also noted that he would be vacating the lot lines between the buildings so that they would function as one building.

Ms. Beckett said that staff was uncomfortable with covering the brick with Dryvit and was hoping there could be a discussion of alternatives for the brick wall. She said she had no problem with the addition, but the Dryvit was too modern for the neighborhood. She also said there was no problem with the sign.

Mr. Richert asked for comments from the audience.

He said that some details could be added along the brick façade elevation, but he had no problem with the application of the Dryvit.

Mr. Hughes said that the planter could be extended.

Mr. Richert advised Mr. Hughes that if he wanted to he could ask for a continuance so he could meet with staff and discuss other alternatives. He also said that the Board could act on the application before them.

Mr. Hughes said that he was hearing many ideas and he would not be able to satisfy all of them. He said that the Board had set a precedent by allowing the use of Dryvit on the front the structure.

Mr. Richert said that the Board could proceed. He said he did not hear of any problems with the signage.

Mr. Manetta said that he did not hear of any problems with the addition or the signage, just the brick façade. He suggested Mr. Hughes could make that a separate application and have the remainder voted on today.

Mr. Hughes said the he did not expect such animosity about the application.

There was discussed between Mr. Hughes and the Board as to how Mr. Hughes wanted to proceed on his application. Mr. Hughes agreed to go forward with the requests for signage and the building addition and to continue the modification to the brick wall.

Mr. Manetta made a motion to accept the amended application to include the signage and addition and to continue the modification to the brick wall. The motion was seconded by Mr. Harwood. A vote was then taken on the new addition and sign, as well as the tabling of the modification to the brick wall until November and was approved by a vote of 7-0.

3. Request from Burger and Son for a Certificate of Appropriateness approving vinyl siding at 802/804 Marshall Avenue, S.W.

Mr. Lewis Burger appeared before the Board on behalf of Burger and Son. He said he had no problem with his property until May, 2003. He said the siding had been in place almost three years.

Mr. Richert said that approval of the Board was required and the vinyl siding job was completed after Mr. Burger had been advised that Board approval was necessary.

Mr. Burger said that the vinyl siding was around the front porch. He said that he had run the soffit in the manner explained to him by Dave Hatchett, Building Inspector.

Mr. Talevi asked how Mr. Hatchett had been involved if no building permit was required for application of siding. He asked if there were other Code violations involved.

Mr. Burger said that the house had been condemned.

Ms. Beckett said that this had been a very difficult case. She said that she had visited the site in May when she saw Mr. Burger working on the porch, but she had not seen him install the siding. Ms. Beckett said that in May she had asked Mr. Burger to stop work on the porch. She said he did not realize he needed to come before the Board for a certificate of appropriateness and felt he was "grandfathered." She said that she had to take Mr. Burger to court and the judge had ordered him to appear to apply for a certificate of appropriateness. Ms. Beckett said that Mr. Burger had installed vinyl windows and removed the window trim and had basically covered everything visible on the house with vinyl. She said that she did not believe the vinyl siding matched the original siding.

Mr. Townsend asked if the exterior cladding had been completed in May, 2003.

Ms. Beckett said that it had and he was finishing the porch.

Mr. Burger said he had been asked to stop work on the porch.

Mr. Harwood said that in the very recent past, the Board had taken a very strong stand on synthetic siding. He said he had not heard yet that Mr. Burger knew about the siding before he finished it.

Mr. Manetta said that the Board had been very specific in recent times about the application of siding over defining features of the building; i.e., windows and doors and their frames; soffits, porch wraps. He said that what Mr. Burger had done would have required approval from the Board.

Mr. Richert said that one of the problems the Board was dealing with was that they were being asked to look at this after the fact. He said that the property owner had shown a significant amount of intransigence with his willingness to comply with the request of staff in bringing this to the Board in the first place. He said that if the Board were to approve this application, it would send an increasingly damaging message to the community. He said that he could not believe it was in the Board's best interest to validate this property owner's approach to do what he wishes to in spite of what he is allowed to do in the City as a whole. He said he would vote no.

Mr. Burger said that if you did not allow people to make improvements to their houses you would promote slums.

Mr. Harwood said that painting was an option.

Mrs. Blanton asked for clarification on the recent Council amendment relative to siding. She asked if synthetic siding was allowed as long as it did not damage the character-defining features. She said that a year ago, the Board would probably have approved the siding, but looked very carefully at the specific details. She questioned whether Mr. Burger needed a building permit to install siding.

Mr. Talevi said that no building permit was necessary, however, the siding had to be applied under the zoning ordinance. He said that the Zoning Administrator would have to make a finding that the activity did or did not need a certificate of appropriateness.

Mr. Burger presented a brochure which depicted the replacement window he had used.

Mr. Prescott said that the owner needed a certificate of appropriateness to install vinyl siding and that had not been pursued.

Mr. Manetta said that he did not think the replacement windows would have been approved by the Board.

Mr. Harwood suggested the applicant offer the following: (1) apply 3 ½" wide vinyl surround with an integral "J" channel to all windows and doors; (2) remove vertical dark blue siding on the porch beam and/or entablature and repair or replace with wood; (3) put gutters on the house, with original cornice; trim with the Ogee gutter configuration.

Mr. Burger said that the windows were designed in the way they were installed. He asked if that was wrong.

Mr. Harwood said that it was and that an integral "J" channel should have been used.

Mr. Richert said that if the Board voted no, Mr. Burger could meet with staff and other knowledgeable Board members and come back with a new proposal. He said that the Board had spent a lot of time designing things and if Mr. Burger came back with a new proposal that would save the Board time during the meeting. He said that he wanted a detailed description and diagrams and he felt that could be considered a substantially new application. He said that his

concern was the Board taking the position that a property owner, who proceeds in defiance, could be rewarded in any way. He said he did not want to give the impression that the Board would approve any vinyl siding. He said he was not anxious to sit here and design a modification to the proposal. He said that the building required some major modification.

Mr. Harwood said that he agreed and he felt very uncomfortable with this application. He said he was concerned about the message going to absentee landlords that they could slip something in and get approval by the Board.

Mr. Burger said that he had a lot of money invested in the project.

Mr. Harwood said that the Board recognized that each single structure was a contributing structure in the district. He said that the skin of these building was wood siding and when someone wanted to cover that skin, the Board wanted to know why. He also said there had to be great attention to the details of the building.

Mr. Richert asked for further comments. There being none, a roll call vote on the application was taken. The requested was denied by a vote of 0-7, as follows:

Mrs. Blanton – no
Mr. Harwood – no
Mr. Ray – no
Mr. Manetta – no
Mr. Schleuter – no
Mr. Prescott – no
Mr. Richert – no

Mr. Richert encouraged Mr. Burger to quickly meet with staff to see if something could be worked out.

Mr. Burger said he thought he was doing the right thing.

4. Request from the City of Roanoke, represented by Mark Clark, for a Certificate of Appropriateness approving paint color on the dome of the bell tower of Fire Station No. 1 at 13 Church Avenue, S.E.

Alison Blanton and Don Harwood stepped down due to a conflict of interest.

Mr. Clark said that the request was to change the color on the dome of the bell tower to a brick red color (on file). He made a presentation on the dome and the proposed change in color.

Mr. Prescott asked the color of the roof below it.

VIRGINIA;

IN THE COUNCIL OF THE CITY OF ROANOKE

IN THE MATTER OF

) CITY CLERK '03 NOV 03 PM 02:28
) PETITION FOR APPEAL
)
)

This is a Petition for Appeal from a decision of the Architectural Review Board under Section 36.1-642(d) of the Zoning Ordinance of the Code of the City of Roanoke (1979), as amended.

1. Name of Petitioner(s): LEWIS R BURGER
2. Doing business as (if applicable): BURGER & Son Inc.
3. Street address of property which is the subject of this appeal: 802
804 MARSHALL AVE SW
4. Overlay zoning (H-1, Historic District, or H-2, Neighborhood Preservation District) of property(ies) which is the subject of this appeal: H-2
5. Date the hearing before the Architectural Review Board was held at which the decision being appealed was made: 10-9-03
6. Section of the Code of the City of Roanoke under which the Certificate of Appropriateness was requested from the Architectural Review Board (Section 36.1-327 if H-1 or Section 36.1-345 if H-2): _____
7. Description of the request for which the Certificate of Appropriateness was sought from the Architectural Review Board: REPLACEMENT
WINDOWS, SIDING & INSULATION
8. Grounds for appeal: I Did This To Improve The
VALUE AND TO DECREASE THE COST OF
UTILITIES
9. Name, title, address and telephone number of person(s) who will represent the Petitioner(s) before City Council: LEWIS R BURGER
111 JAMESTOWN Rd ROCKY MT VA 24151

483-1708

WHEREFORE, your Petitioner(s) requests that the action of the Architectural Review Board be reversed or modified and that a Certificate of Appropriateness be granted.

Signature of Owner(s)
(If not Petitioner):

Lewis R Burger Sr.

Name: LEWIS R BARGER
(print or type)

Name: _____
(print or type)

Signature of Petitioner(s) or
representative(s), where
applicable:

Name: _____
(print or type)

Name: _____
(print or type)

TO BE COMPLETED BY CITY CLERK:

Received by: Stephanie M. Morn Date: November 3, 2003
Deputy City Clerk